S^r. Creswell Levinz Kn^t.
Late one of the Judges of the Court
of Com̃on Pleas.

Printed for S. Keble, D. Browne, T. Benskins, & I. Walthoe.

15-7-1

A

COLLECTION

OF

Select and Modern

ENTRIES

OF

Declarations, Pleadings, Issues, Verdicts, Judgments, &c.

MVSEVM

Referring to the CASES in

Sir *Creswell Levinz*'s Reports;

The Judgment of the Court being added to each PRESIDENT.

With *Notes* and *References* to the Reports and Entries of the Law.

Written by the said Sir **Creswell Levinz**.

K

ALSO

Some Entries in the 10th, 11th and 12th Years of the Reign of the late King *William* III.

LONDON:
Printed by the Assigns of *Richard* and *Edward Atkins* Esquires, for **D. Browne** at the *Black Swan* without *Temple-Bar*, **C. Benskin** against *Lincolns-Inn* Back-gate, and **J. Walthoe** in the *Middle-Temple*-Cloisters, 1702.

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FH
MVSEVM
BRITANNICVM

TO THE

READER.

SEveral Volumes of Precedents of Declarations, Pleas, &c. have been recommended to us since the Times of *Rastall* and *Coke*, whose Elaborate Entries have gained the Reputation of Authorities.

And there has been Reason so to do; for those Entries chiefly respect Real Actions, which are very rarely in use: But now we have Infinity of Actions, as upon the Case, occasion'd by several Emergencies not thought of in those Times, and upon Covenants arising upon the Construction of Deeds, Agreements, Charter-parties, and on special Leases, which now are of great Extent, and make the greatest Figure in our Law-Books, and which were seldom reported in our Year-Books.

Besides, there have been several Acts of Parliament lately made, by some of which Old Laws have been altered or explained, and by others New Laws constituted; insomuch that the Method of Pleading is very much altered, according to the several Natures of the Actions and Circumstances on which they are grounded.

These Precedents of Declarations, Pleadings, *&c.* of the late Learned Sir *Creswell Levinz*, here presented to you, I question not will be well entertained upon these three Accounts:

I. For that they are drawn on Cases lately resolved, and most of them since the late King *William* (of Glorious Memory) his Accession to the Crown.

II. For that they have been perused, and Notes and References made to several of the Reports and Entries by the late Learned Sir *Creswell Levinz*, who had a solid and peculiar Talent at this sort of Learning.

III. For that most of them are adjudged and resolved in his own Reports, to which the Student or Clerk may make application, and see with great Delight where the *Declarations*, *Pleas*, *Cause of Demurrers*, *Traverses*, *Special Verdicts*, and the like, are good or defective: For, it can be no great Satisfaction to peruse a Precedent, if one cannot be satisfied of the Judgment of the Court upon Argument or Debate, and on what Points and for what Reasons the same were so adjudged.

Action ſur le Caſe.

Trin. 32 Car. II. Rot. 790.

Frampton *verſus* Pettis.

Vide this Caſe in *Levinz*'s Reports, Part III. fol. 23.

3 *Cr.* 598, 830. *Barnard* & *Richards*, Tr. 14 *Car.* 1. B. R. Rot. 1590.

Action on the Caſe by Executor againſt an Attorney.

South'ton ſſ. MEmorand qd undecimo die Junii iſto eodem Termino ven hic in Cur Carolus Frampton Gen Executor teſti Anne Pettis defunct' p Ricum Haſiler Attorn ſuum & exhibuit Juſtic hic quandam Billam ſuam verſus Edward Pettis Gen oſum un Attorn Cur Dni Regis de Banco hic pſen hic in Cur in ppria pſona ſua de plito transgr ſup Caſum &c. Cujus quidem Bille tenor ſequitur in hec verba Juſtic Dni Regis de Banco Southton ſſ. Carolus Frampton Gen Executor teſti Anne Pettis defunct queritur de Edro Pettis Gen un Attorn Cur Dni Regis de Banco hic pſen hic in Cur in ppria pſona ſua de eo videlt quare cum pdictus Edrus primo die Junij anno regni Dni Caroli ſecdi nunc Regis Angl &c. 31. apud Villam Southton indebitat fuiſſet pd Anne in vita ſua in Centum libris legalis monete Angl p tanta denar ſumma ipſius Anne in vita ſua p eundem Edrum p eadem Anna in vita ſua & p uſu ejuſdem Anne ante tempus illud hit & recept & ſic inde indebitat exiſten idem Edrus in conſideracione inde ſup ſe aſſumpſit & eidem Anne in vita ſua adtunc & ibm fidelit pmiſit qd ipſe Edrus pd Centum libras eidem Anne bene & fidelit ſolvere & contentare vellet Cumq; etiam idem Edrus poſtea ſcilt die & anno ſupradict apud Villam Southton pdcam ſcilt indebitat fuiſſet eidem Anne in vita ſua in al' Centum libris ſilis monete Angl p tanta denarior ſumma ipſius Anne in vita ſua p eandem Annam in vita ſua ad requiſicon ejuſdem Edri eidem Edro ante tempus illud mutuo dat & accomodat Angl lent Et ſic inde indebitat exiſten idem Edrus in conſideracon inde ſup ſe aſſumpſit & eidem Anne in vita ſua adtunc & ibm fidelit pmiſit qd ipſe idem Edrus pdict Centum libras ult mentionat eidem Anne bene & fidelit ſolvere & contentare vellet pdict tamen Edrus ſepal' pmiſſion & aſſumpcon ſuas pd mde curans ſed machinans & fraudulent intendens eandem Annam in vita ſua & pfat Carolum poſt ipſius Anne mortem de pdict ſepal' denarior ſummis in toto ſe attingen ad ducentas libras in hac parte callide & ſubdole decipe & defraudare pd 200 l. aut aliquem inde denar eidem Anne in vita ſua aut pfat Carolo poſt mortem ipſius Anne non ſolvit ſeu pinde aliqualit huc uſq; contentavit licet ſepius requiſit ad dampnu ipſius Caroli Centum librar Et inde pet remediu &c. Et pfert hic in Cur lras teſtamentarias pfat Anne p quas ſatis liquet Cur hic ipſum Carolum fore Executorem teſti pdict Et inde here adminiſtraconem &c. Pleg' de ps Johannes Doe & Ricardus Roe.

Indebitat' aſſumpſit.

For Money received.

For Money lent.

Pleads *Non assumpsit* to part.

Et p̄dicus Edrus in ppria persona sua defend vim & injuriam quando, &c. Et quoad sepal' pmissiones & assumptiones suas p̄dicas quoad Centum quadraginta & sex libras quinq; solidos & sex denar de p̄dicis ducentis libris supius fieri suppōit dicit qd ipse non assumpsit sup se modo & forma put p̄dicus Carolus supius v̄sus eum queritr Et de hoc pon se sup priam Et p̄dicus Carolus simil Et quoad separales pmissiones & assumptones suas p̄dicas quoad viginti & tres libras ac triginta libras quatuordecim solidos & sex denar de p̄dict' ducentis libris resid supius fieri suppōit idem Edrus dic qd p̄dicus Carolus accōnem suam p̄dicam inde v̄sus eum here non debet quia dic qd Civitas London est antiqua Civitas infra quam quidem Civitatem habet & a tempore cujus contrarij memoria hominum non existit hebat usitat & appbat videlt qd si aliqua querela sive Billa originalis debi p aliquam psonam in Cur Dni Regis coram Majore & Aldris Civitatis London p̄d p tempore existen in Camra Guildhall ejusdem Civitatis secdum Con-

To the residue pleads foreign Attachment in London.

The Customs of London.

suetudinem Civitatis illius levat seu affirmat fuit ita qd virtute querele sive Bille originalis illius p Cur ill' alicui servien ad Clavam corundem Majoris & Aldrorum infra eandem Civitatem & Ministro Cur p̄d pcept fuit ad sum psonam in eadem querela sive Billa originali defenden nōiat essend ad eandem Cur Dni Regis in Camra Guildhall p̄d coram Majore & Aldris Civitatis p̄d p tempore existen ad respondend quer in eadem querela sive Billa originali specificat Et hujusmoi serviens ad Clavam ac Minister Cur p̄d ad Cur ill virtute pcepti illius coram eisdem Majore & Aldris testificavit qd dcus defens nichil huit infra libtat Civitatis p̄d unde sum posset nec fuit invent in eadem Et supinde hujusmoi defens in eadem Cur defalt fecit & in Cur illa coram eisdem Majore & Aldris p querentem in eadem querela sive Billa originali nōiat testificat vel allegat fuit qd tlis querens causa vel rōne quacunq; indebitat fuit hujusmoi defendenti in aliqua denariorum suma ad summam debi in querela seu Billa originali p̄d spec aut aliquam parcellam inde attingen tunc ad petitonem hujusmod quer in querela sive Billa originali p̄d nōiat p eundem Cur servien ad Clavam & Ministro Cur p̄d p̄cipet qd ipse def' in querela sive Billa originali p̄d nōiat p hujusmod denariorum summam sic in manib; & custodia ejusdem querentis existen attach & summam ill' in manib; suis defend essend ad eandem Cur Dni Regis in Camra p̄d coram eisdem Majore & Aldris Civitatis p̄d tent ad respondend' tli querenti in querela seu Billa originali ill nōiat de plito in eadem spec Et si p̄fat serviens ad Clavam ac Minister Cur p̄d' ad Cur ill' coram Majore & Ald'ris Civitatis p̄d' testificavit qd' ipse hujusmod def' p summam ill' attach & illam in manib; & custod' ejusdem quer defend' essend' ad eandem Cur' ad respondend' eidem quer de plito in hujusmod querela sive Billa originali spec & hujusmod defendens ad Cur illam ac tres alias Cur Dni Regis coram Majore & Ald'ris Civitatis p̄d' sepatim extunc tenend' videlt ad quatuor hujusmod Curias solempnit exact' non ven sed defalt fecit (quer in querela seu Billa originali p̄d' nōiat ad quamlibt earundem Cur comparente tunc ad ultimam earundem Cur casu quo aliqua denariorum suma in manib; queren in querela seu Billa originali p̄d' nōiat p quam hujusmod deft attach & defens fuit in forma p̄dict ad petiton hujusmod quer adjudicabit' per eandem Cur quod querens p̄d' heat executionem dict denariorum summe in manib; ipsius quer existen ut p̄dict attach p Pleg' p ipsum hujusmod quer in eadem Cur inveniend' ad restituend' tli deft in querela sive Billa originali p̄d' nōiat denarios p̄d' sic ut p̄fertur attachiat si ipse tlis def' infra annum & diem px' sequen secdm Consuetudinem Civitatis p̄d' venit in eadem Cur & inveniret sufficien securitatem ad ipsum p̄fat def' hend' de Cur in Cur ad respondend' p̄fat' quer de & in plito in p̄d' querela seu Billa originali specificat usque finem pliti querele sive Bille originalis illius secdm

Con-

Consuetudinem Civitatis p̄d' vel corpus suū alicui prisone Dnī Regis
infra libtatem Civitatis p̄d' secdm̄ Consuetudinem Civitatis illius red-
deret & ibm manucapret parac̄ ad plitand' cum p̄d' quer̄ in & sup que-
relam sive Billam originalem suam p̄d' & debum p̄d' in quer̄ sive Billa
originali p̄d' contenc̄ secdm̄ Consuetudinem Civitatis p̄d' v̄sus eundem
quer̄ dilroñare seu sese ullo modo exonerare Et qd' post hum̄oi se-
curitatem invenc̄ & execucionem hum̄oi debi in manib3 & custodia hu-
jusmoi querentis attachiat' & defens̄ hic idem querens exonerac̄ fuit de
eodem debo sic attachiac̄ v̄sus tlem def̄ in tli querela sive Billa origi-
nali nōiac̄ vel tanto inde quanc̄ attingen̄ ad dcm̄ debm sic p tlem quer̄
in tli querela sive Billa originali petic̄ Et quod idem def' sciłt exonerat'
fuic̄ de tanta summa debi sui v̄sus tlem quer̄ in tli querela sive Billa
originali nōiac̄ quanc̄ dict' summa sic attachiac̄ & unde execucō hita fuit
attingen̄ tamdiu qd̄ hujusmoi Judicm̄ & Execucō in suis robore &
effcū pmanerent p tlem Def' mōe revocac̄ sed si aliquis Quer̄ in tli
querela sive Billa originali nōiac̄ sup tali processu de sum̄ supinde ema-
nac̄ & retornac̄ ut p̄fertur in Cur̄ ad quem hum̄oi querela sive Billa
originalis levac̄ seu affirmac̄ fuic̄ allegavic̄ qd aliqua psona p̄c̄ seipm̄
fuit indebitac̄ eidem quer̄ in aliqua denarioꝝ suma & supinde eadem
sum̄a sic ut p̄ferc̄ fuit attach & defens̄ p denac̄ in manib3 ejusdem pso-
ne existen̄ in forma p̄dc̄a & post hum̄oi quatuor defaltas ut p̄ferc̄ re-
cordac̄ eadem psona solempnic̄ exacc̄ non ven̄ in Cur̄ p̄dcam̄ sed defalc̄
fec̄ (p̄dc̄o quer̄ in hum̄oi querela sive Billa originali nōiac̄ ad qm̄libt
p̄dc̄aꝝ quatuor Cur̄ comparen̄) tunc secdum̄ Consuetudinem Civitatis
p̄dc̄e in toto tempore sup̄dc̄o usitac̄ ante execuc̄onem hum̄oi denar̄ sum̄e
adjudicand ad ultimam eaꝝdem quatuor Cur̄ p̄cipetur p eandem Cur̄
hum̄oi servien̄ ad Clavam ac Ministro Cur̄ p̄dc̄e qd ipse secdm̄ Con-
suetudinem Civitatis p̄dc̄e p̄mon̄et & scire fac̄ & eidem def̄ in hum̄oi
querela sive Billa originali nōiac̄ essendi in aliqua Cur̄ dcī Dnī Re-
gis coram p̄fac̄ Majore & Aldr̄is Civitatis p̄dc̄e tunc postea in Cam̄a
Guildhall Civitatis p̄dc̄e tenend ad ostendend & demonstrand si quid p
se heret vel dicere sciret quare p̄dc̄us querens execuc̄onem v̄sus eum de
denariis p̄dc̄is sic ut p̄ferc̄ in manib3 suis attach & defens̄ v̄sus eum
here non deberet si, &c. Et si hum̄oi serviens ad Clavam ac Minister
Cur̄ p̄dc̄e ad p̄dcam̄ Cur̄ coram p̄fac̄ Majore & Aldr̄is ut p̄fertur te-
nen̄ retornavic̄ & certificavic̄ eidem Cur̄ qd ipse virtute p̄cepti p̄dcī sibi
dircī p̄mon̄ & scir̄ fecit p̄fac̄ Def' essendi in eadem Cur̄ eodem die tenen̄
put ei p̄cepc̄ fuit ad petic̄onem dcī queren̄ p Attorn̄ suū Cur̄ p̄d' fac̄
dc̄us p̄monic̄ adtunc & ibm solempnic̄ exacc̄ non comparuit sed defalc̄
fecit tunc ad Cur̄ ilł adjudicarec̄ qd querens p̄dc̄us heret execuc̄onem
dc̄e denarioꝝ summe in manib3 persone p̄dc̄e ut p̄ferc̄ attach p Pleḡ
p ipm̄ hum̄oi quer̄ in eadem Cur̄ inveniend ad respituend eidem psone
in cujus manib3 denarij p̄dcī sic ut p̄ferc̄ attach & defens̄ fuerunt denac̄
ilł sic ut p̄ferc̄ attach si eadem psona infra annū & diem tunc px' sequen̄
secdm̄ Consuetudinem Civitatis p̄dc̄e veniret in eadem Cur̄ & inveniret
in eadem Cur̄ sufficien̄ securitatem ad eandem psonam hend de Curia
in Cur̄ ad respondend p̄fac̄ quer̄ de & in plito in p̄dc̄a querela sive Billa
originali specificac̄ usque finem placiti querele sive Bille origi-
nalis illius secdm̄ Consuetudinem Civitatis p̄dc̄e vel corpus suū
alicui Prisone Dnī Regis infra libtatem Civitatis p̄dc̄e secdm̄ Con-
suetudinem Civitatis illius redderet & ibm manciparet parac̄ ad pli-
tand cum p̄dc̄o querente in & sup querelam sive Billam originalem suā
p̄dcā & debm p̄dend in querela seu Billa originali p̄dcā contenc̄ secdm̄
Consuetudinem Civitatis p̄dc̄e v̄sus eundem quer̄ disrac̄onare seu sese
ullo modo exonerare Et qd post hum̄oi securitatem invenic̄ & executio-
nem hum̄oi debi in manib3 & custodia hum̄oi psone attach & defens̄
hic eadem psona exonerac̄ fuic̄ de eodem debo sic attach v̄sus tlem def' in

tli querela seu Billa originali noiat vel tanto inde quant atting' ad dcm debm sic p tlem quer in tli querela sive Billa originali petit Et qd idem Def' similiter exondrat fuit de tanta suma debi sui ous tlem quer in tli querela sive Billa originali noiat quant dca summa sic attach & unde executo hir fuit atting' tamdiu quum humoi Judicium & executio in suis robore & effcu pmanerent p tlem def' nunc revocat Que quidem consuetudo necnon omes al consuetudines Civitat pdce in toto tempore pdco usitat & approbat Authoritate Parliamenti Dni Ricd nup Regis Angl secdi post Conquestum apud Westm anno regni sui septimo tent tunc Majori & Communitati dce Civitatis London & Successoribz suis ratificat & confirmat fuer Et pdcus Edrus ulcius dic qd ipe alias scilt vicesimo quinto die Novembris anno regni Dni Regis nunc tricesimo primo in propri psona sua ven in Cur dci Dni Regis nunc coram Robto Clayton Mil tunc & adhuc Majore & Aldris Civitatis London pdce in Cama Guildhall ibm scituat in parochia Scti Michis Bassishaw in warda de Bassishaw London pd secdm Consuetudinem ejusdem Civitatis tent Et tunc & ibm in eadem Cur affirmavit ous pdcm Carolum Frampton executorem testi & ult voluntatis Anne Pettis defunct' alias dict' Annam Pettis de Newport in Insula Vectis in Com Southton viduam quandam Billam suam originalem in plito debi sup demand octoginta librar legalis monete Angl Cujus quidem Bille originalis tenor sequit in hec verba st. Edwardus Pettis per Thomam Monk Attorn suu pet ous Carolum Frampton executorem testi & ult voluntatis Anne Pettis defunct' alias dicte Annam Pettis de Newport in Insula Vectis in Com Southton viduam octoginta libras legalis monete Angl quas ei injuste detinet &c. Eo qd cum quarto die Januarij anno regni Dni nri Caroli secdi nunc Regis Angl &c. vicesimo septimo in parochia Scti Xpoferi London dca Anna Pettis in vita sua p quoddam scriptum suu obligatorium sigillo suo sigillat & hic in Cur plat cujus dat est eisdem die & anno obligavit se pfat querenti in dcis octoginta libris solvend eidem quer quo & quando &c. put per idem scriptum obligatorium plene liquet pdca tamen Anna in vita sua seu pfat nunc defend post ipsius Anne mortem dcas octoginta libras nondum solvit licet sepius &c. ad dampnu dict' quer viginti librar Et inde pduc sectam &c. Ad quam quidem Cur pdcus Edrus Pettis invenit Pleg' de psequend Billam originalem suam pdca scilt Johem Doe & Ricm Roe & posuit loco suo pfat Thoma Monk Attorn suu in plito Bille originalis sue pdce & p eundem Attorn suu tunc & ibm petiit pcessum ei supinde fieri ous pfat Carolum Frampton executorem &c. secdm Consuetudinem Civitatis pdce & ei adtunc & ibm concedebatur &c. sup quo adtunc & ibm secdm Consuetudinem Civitatis pdce in eade Cur pcept fuit p pdcos Majores & Aldros cuida Robto Capell servien ad Clavam dcor Majoris & Aldror ac Ministro Cur pd qd ipe sum secdm Consuetudinem Civitatis pd pfat Carolum Frampton essendi ad pdcam Cur dic Dni Regis nunc in Cama Guihald pd dco vicesimo quinto die Novembris anno tricesimo primo supdco ad respondend pfat Edro Pettis in plito pd secdm Consuetudinem Civitatis pd Et postea ad eandem Cur scilt eodem vicesimo quinto die Novembris anno tricesimo primo supdco secdm Consuetudinem pdcam in Cama Guihald pd tent testificat fuit p pdcm servientem ad Clavam ac Ministrum Cur pd qd pd Carolus Frampton nichil huit infra libtatem Civitatis pd unde sum potuit nec fuit invent in eadem &c. super quo secdm Consuetudinem Civitatis pd allegat fuit in pd Cur p ipm Edru Pettis qd ipe idem Edrus debuit pfat Anne Pettis in vita sua ac tempore mortis sue vig'ti & tres libras legalis monete Angl p qd adtunc & ibm pcept fuit p eandem Cur ad peticonem ipsius Edri Pettis pfat servienti ad Clavam ac Ministro Cur pd secdm Consuetudinem Civitatis pd qd ipe attach

Customs of London confirmed by Act of Parliament.

Plaint levied on Bond of the Testatrix.

Summons.

Retorn *Nihil habet*.

Precept to attach.

attach pdict' Carolum Frampton executorem &c. p pd viginti & tres libras in manib; & custodia ipsius Edri Pettis ppr' existen & easdem viginti & tres libras in manib; suis defenderet secdm Consuetudinem Civitatis pd essendi ad ps Cur dcd Dnd Regis nunc in Cam̃a ps coram pfat Majore & Aldris illo eodem vicesimo quinto die Novembris anno tricesimo primo supd tent ad respondend eidem Edro Pettis in plito pd' ptextu Bille originalis pd' &c. Et quid inde fecit eid' Cur eod' vicesimo quinto die Novembris anno tricesimo primo supd' ibm certificaret virtute cujus quidem pcepti pd' serviens ad Clavam ac Minister Cur pd' pdcm Carolum Frampton p pd' viginti & tres libras int horas undecimam & duodecimam ante meridiem ejusdem diei attachiavit in ppr' manib; & custod' pfat Edrd secdm Consuetudine pdam ac inde pd' Cur dcd Dnd Regis nunc pd' vicesimo quinto die Novembris anno tricesimo primo supd' coram pfat Majore & Ald'ris in Cam̃a pd' tent int horas pd' certificavit qd ipse pfat serviens ad Clavam ac Minister Cur pd' ptextu pcepti pdict' pdend Carolum Frampton Executorem &c. p pdict' viginti & tres libras attachiavit in manibus & custodia ipius Edri Pettis ppr' secdm consuetudinem pdca sup quo idem Edrus Pettis ps vicesimo quinto die Novembris anno tricesimo primo supradicto in pdicta Cur dcd Dnd Regis nunc in Cam̃a pdicta coram Majore & Aldris pdictis secdm consuetudine pdict' tent p Attorn sud pdict' comparuit in plito pdicto & pdictus Carolus Frampton ad eandem Cur secdm consuetudinem Civitatis pdict' tent licet solempnit exact non comparuit sed primam fecit defaltam sup quo dies dat fuit eidem Carolo Frampton in plito illo secdm consuetudinem pdictam essend in Cur dcd Dnd Regis nunc in Curia Guildhall ps coram pfat Majore & Aldris postea die scil vicesimo sexto die Novembris ps secdm consuetudine pdca tenend idem dies dat fuit pfat Edvardo Pettis essend adtunc & ibm secdm consuetudinem pdca &c. ad quem diem ad Cur ps coram pfat Majore & Aldris pd vicesimo sexto die Novembris anno vicesimo primo supdicto in Cam̃a Guihald pdicta tent pfat Edrus Pettis p Attorn sud pdict' in plito pdicto comparuit & pdictus Carolus Frampton ad eandem Cur secdm consuetudine pdca licet solemnit exact non comparuit sed secda fecit defaltam super quo dies dat fuit adtunc & ibm p eandem Cur eidem Edvardo in plito illo secdm consuetudinem pdict' usq; ad px' Cur Dnd Regis coram dcis Majore & Aldris in Cur Guihald pdicta vicesimo septimo die Novembris pdict' tenend & idem dies dat fuit pfato Carolo Frampton essend ibm ad eandem Cur secdm consuetudinem pd' ad respondend' eidem Edvardo Pettis in plito illo &c. ad quem diem scil ad Cur pdca coram pfat Majore & Aldris eodem vicesimo septimo die Novembris in Curia Guihald pdict' tent idem Edrus Pettis p Attorn sud pdict' in eodem plito comparuit & pdict' Carolus Frampton in eadem Cur secdm consuetudinem pdict' licet solempnit exact' non compar sed tertia fecit defaltam sup quo dies dat fuit tunc & ibm p eandem Cur eidem Edvardo in plito pdicto secdm consuetudine pdca usq; ad px' Cur dcd Dnd Regis nunc coram dictis Majore & Aldris in Cur Guihald pdict' vicesimo octavo die Novembris anno vicesimo primo pdict' tenend & idem dies dat fuit pfat Carolo Frampton essendi ibm ad eandem Cur secdm consuetudinem pdca ad respondend eidem Edro Pettis in plito pdicto &c. Ad quem diem scil ad Cur ps coram pfat Majore & Aldris pdict' vicesimo octavo die Novembris in Cam̃a Guihald pdict' secundum consuetudinem pdict' tent pdict' Edrus Pettis in eodem plito p Attorn sud ps comparuit Et pdict' Carolus Frampton ad eandem Cur secdm consuetudine pdict' licet solemnit exact' non comparuit sed quarta fecit defalta & se Justiciari non pmisit p forinsecu attachiamentu pdict' secdm consuetudine Civitatis pdict' Que quidem omnes quatuor defalt ad sepales Curias pdcas debito modo recordat fuerunt post quas quidem quatuor defaltas secdm consuetudinem pdca in

First default.

Second default.

Third default.

Fourth default.

Defaults recorded.

in p̄dca Cur̄ dcī Dnī Regis nunc coꝛam p̄dcis Majoꝛe & Ald'ꝛis in Cam̄a Guihald p̄dict' ſic ut p̄mittitur fact' & recoꝛdat idem Ed'ꝛus Pettis ꝑ Attoꝛn̄ ſuū p̄dcm̄ petijt executon̄ de p̄d' viginti & tribus libꝛis ſic ut p̄mittit in manib; & cuſtodia ſuis ꝓpꝛ' attach & defens ꝑ ſufficien̄ Manucapcon̄ ſive Pleg̃ ſecdm̄ conſuetudin̄ p̄d inveniend ad reſponden̄ Carolo Frampton ſi ip̄e infra annum & diem tunc ꝓx' ſequen̄ debum p̄dcū diſꝓbavit ac de p̄dict' viginti & tribus libꝛis v̄ſus p̄dict' Ed'ꝛū Pettis diſrationavit ſecdū conſuetudinem p̄dcā & ꝑ eo q̄d ſatis liquet eidem Cur̄ ibm q̄d p̄dca Anna Pettis in vita ſua ac tempoꝛe moꝛtis ſue debuit ip̄i eidem Ed'ꝛo p̄dcas viginti & tres libꝛas in Billa Oꝛiginal p̄dca ſpec & p̄dcus Carolus Frampton Executoꝛ ejus p̄dcus eaſdem viginti & tres libꝛas eidem Ed'ꝛo poſt ipſius Anne moꝛtem non reddidit ſed injuſte detinuit conſiderat fuit per eandem Cur̄ ſecundum

Judgment.

conſuetudinē p̄dict' Civitatis p̄dcā quod idem Ed'ꝛus heret executionem p̄dict' viginti & trium libꝛaꝝ in manib; & cuſtodia ſuis ꝓpꝛ' ſic ut p̄fert attach & defens & penes ſe eaſdem vigint & tres libꝛas retinet in ſolucone p̄dict' viginti & trium libꝛaꝝ ꝑ Manucapcone Jacobi Nutley Gen' & Johis Mil s Millener Civum Civitatis p̄dict' ſecundum tenoꝛem Judicij p̄dict' & conſuetudinem Civitatis p̄dict' ad inde reſpondens p̄fat Carolo Frampton ſi ipſe infra p̄dict' annum & diem venit & debum p̄dcū diſꝓbavit ac de p̄dcis vigint & trib; libꝛis v̄ſus p̄fat Ed'ꝛū Pettis diſrationavit ſecundū conſuetudinē p̄dcā &c. Ob cujus quidē

Execution.

defalt idem Ed'ꝛus Pettis ꝑ conſideracon̄ ejuſdem Cur habuit executionem de p̄d' vigint & trib; libꝛis ſic in manib; & cuſtodia ſuis ꝓpꝛ' ut p̄fert attach & defens ſecundum conſuetudinem Civitatis p̄dict' &c. ꝑut recoꝛdant & ꝓceſſum inde in p̄dict' Cur̄ Cam̄a Guihald Civitatis p̄dict' coꝛam Majoꝛe & Ald'ꝛis p̄dict' residen̄ liquet manifeſte Et idem Ed'ꝛus in ꝑlito dic q̄d p̄dict' viginti & tres libꝛe ad quas ipſe idem Ed'ꝛus ſupius ut p̄fert ꝑlitavit ſunt p̄dict' viginti & tres libꝛe in manib; & cuſtodia ipſius Ed'ꝛi attach ac p̄dicto Carolo Frampton in

Identities averred.

foꝛma p̄dicta defens & non alie neq; div̄ſe q̄dq; p̄dicta Anna Pettis in vita ſua ac tempoꝛe moꝛtis ſue debuit eidem Ed'ꝛo p̄dcas viginti & tres libꝛas ac q̄d p̄dcus Carolus Frampton Executoꝛ &c. poſt ipſius Anne moꝛtem eaſdem eidem Ed'ꝛo non ſolvit ſed injuſte detinuit ac q̄d eadem viginti & tres libꝛe tunc tempoꝛe affirmationis Bille Oꝛiginalis ipſius Ed'ꝛi p̄dicti qui tempoꝛe attachiamenti p̄dicti fact' & certificationis ejuſdem non ſolut ſet injuſte detent fuerunt eidem Ed'ꝛo Pettis ſup quo ip̄e idem Ed'ꝛus narravit v̄ſus p̄fat Carolum Frampton executoꝛem &c. modo quo p̄fertur cum hoc q̄d p̄dcus Carolus Frampton in Billa Oꝛiginali p̄dicti Ed'ꝛi p̄dict' noīat defendens Et p̄dcus Carolus Frampton in narracone ip̄ius p̄dict' Caroli Frampton p̄d' noīat ſunt una eademq; ꝑſona & non alia neq; div̄ſa Et q̄d Judicm̄ & executio p̄d' ꝑ p̄dictis viginti & trib; libꝛis adhuc in ſuo roboꝛe ꝑmanent & effect' ꝑ p̄fat Carolum Frampton mīe diſrocinat ſeu revocat &c. Et p̄dcus Ed'ꝛus Pettis ulterius ꝑ ꝑlito dic q̄d quidā Nathaniel Hudſon alias ſcil p̄dicto viceſimo quinto die Novembꝛis anno triceſimo pꝛimo ſup̄dicto in ꝓpꝛia ꝑſona ſua ven̄ in dicta Curia dcī Dnī Regis nunc coꝛam p̄fat Roberto Clapton Milite tunc & adhuc Majoꝛe & Ald'ꝛis Civitatis London̄ p̄dict'

Another foreign Attachment pleaded for other part of the Money.

in Cam̄a Guihald p̄dict' in Parochia Stī Michis Baſſiſhaw p̄dict' in Warda de Baſſiſhaw London̄ p̄dict' ſecundum conſuetudinem ejuſdem Civitatis ſic ut p̄fert tent ac tunc & idem affirmavit v̄ſus p̄fat Carolum Frampton Executoꝛem p̄dictoꝝ Teſtamenti & ultime Voluntatis p̄dict' Anne Pettis defunct' alias dict' Annam Pettis de London̄ p̄dict' Vidua quandam Billam ſuam Oꝛiginalem in ꝑlito debi ſup demand centū libꝛaꝝ leḡlis monete Anglie cujus quidem Bille Oꝛiginalis tenoꝛ ſequitur in hec verba, ſcil Nathaniel Hudſon ꝑ Thom̄ Monk

Pleint.

Attoꝛn̄ ſuum v̄ſus Carolum Frampton Executoꝛem Teſtamenti & ultime

time Voluntatis Anne Pettis defunct' alias dict' Annam Pettis de London p̄dict' vidua centum libras legalis monete Anglie quas ei in-juste detinet &c. eo quod cum decimo nono die Septembris anno Regni Dnī nrī Caroli secdi nunc Regis Anglie &c. vicesimo nono in Parochia Scti Xpoferi London dca Anna Pettis in vita sua p quoddam suū scriptum obligatorium sigillo suo sigillat & hic huic Cur p̄fat cujus dat est iisdem die & anno obligavit se p̄fat querenti in p̄dictis centum libris solvend eidem quer quo & quando &c. put p idem scriptum obligatorium plene liquet p̄dca tamen Anna Pettis in vita sua seu p̄fat nunc defendent post ipsius Anne Pettis mortem dictas centum libras nondum solvit licet sepius &c. ad dampnum dcī quer' viginti librar. Et inde pduc sectam &c. Ad quam quidem Cur p̄dict' Nathaniel Hudson invenit Pleg ad psequend Billam Originalem suam p̄dcā scil Johem Doe & Ricūm Roe & posuit loco suo p̄dcm Thomā Monk Attorn suū in plito Bille Originalis sue p̄dicte & p eundem Attorn suū tunc & ibm petiit pcess ei superinde fieri vsus p̄fat Carolum Frampton Executorem &c. Et ei tunc & ibm concedebatur &c. sup quo adtunc & ibm secdm consuetudinē Civitatis p̄dict' p̄dcā in eadem Cur pceptum fuit p p̄dict' Majorem & Aldros p̄fat Robto Capell servienti ad Clavam dictor. Majoris & Aldror. ac Ministro Cur p̄dict' qd ip sum secdm consuetudinē Civitat p̄dict' p̄fat Carolum Frampton essendi ad p̄dca Cur' dcī Dnī Regis in Cama Guihald p̄dict' dco vicesimo quinto die Novembris anno tricesimo primo supdco ad respondend p̄fat Nathanieli Hudson in plito p̄dicto secdm consuetudinem Civitatis p̄dicte p̄dcā Et postea ad eandem Cur' eodem vicesimo quinto die Novembris anno tricesimo primo supdco secdm consuetudinem p̄dca in Cama Guihald p̄dict' tent testificat fuit p p̄dcm servientem ad Clavam ac Ministrum Cur p̄dict' qd p̄dcus Carolus Frampton nichil huit infra libtatem Civitatis p̄dict' unde sum potuit nec fuit invent in eadem sup quo secdm consuetudinem p̄dict' p̄dca allegat fuit in p̄dict' Cur p p̄fat Nathanielem Hudson qd p̄fat Edrus Pettis debuit p̄fat Anne Pettis in vita sua & tempore mortis sue triginta libras quatuordecim solidos & sex denar (pter & ultra p̄dictas viginti & tres libras sic ut p̄fertur in manibus ipsius Edri attachiat & defens) p qd adtunc & ibm pceptum fuit p eandem Cur ad petitonem ipius Nathanielis Hudson p̄fat servienti ad Clavam ac Ministro Cur p̄dicte secundum consuetudinem Civitatis p̄dicte p̄dca qd ipe attach p̄fat Carolum Frampton Executorem &c. p p̄d triginta libras quatuordecim solidos & sex denar in manibz & custodia ipsius Edri Pettis existend & p̄dict' triginta libras quatuordecim solidos & sex denar in manibus suis defenderet secdm consuetudinem Civitatis p̄dict' p̄dca essendi ad p̄dca Cur' dcī Dnī Regis nunc in Cama p̄dict' coram p̄fat Majore & Aldris eodem vicesimo quinto die Novembris tent ad respondend eid Nathanieli Hudson in plito suo p̄dict' &c. p̄textu Bille Originalis sue p̄dict' &c. Et quid inde faceret ad Cur p̄dict' eodem vicesimo quinto die Novembris p̄dict' ibm tent eidem Cur certificaret virtute cujus quidē pcepti dcus serviens ad Clavam ac Minister Cur p̄d' eisd' die & anno p̄d' Carolū Frampton p p̄d' triginta libras quatuordecim solidos & sex denar int horas undecimam & duodecimam ante meridiem ejusdem diei in manibz & custodia p̄fat Edri Pettis secdm consuetudinem p̄dict' attachiavit & inde p̄dict' Cur dcī Dnī Regis p̄dco vicesimo quinto die Novembris anno tricesimo primo sup̄dicto inter horas p̄dictas ante meridiem ejusdem diei certificavit scil qd ipse p̄fat serviens ad Clavam ac Minister Cur p̄dicte p̄textu pcepti p̄dict' p̄dcm Carolum Frampton Executorem &c. p p̄dict' triginta libras quatuordecim solidos & sex denar in manibz & custodia ipius Edri Pettis secdm consuetudinem p̄dca attach sup quo idem Nathaniel Hudson dco vicesimo quinto die Novem-

On Bond.

Process.

Summons.

Retorn *Nihil habet.*

Attachment.

bris

bris anno tricesimo primo sup̄dc̄o in p̄dict' Cur' dc̄i Dn̄i Regis nunc in Cam̄a p̄dict' coram Majore & Ald'ris p̄dict' secd̄m consuetudinem p̄dict' tent' in ppria psona sua comparuit in plito suo p̄dicto Et p̄dict' Carolus Frampton ad eandem Cur' secd̄m consuetudinem Civitatis p̄dict' p̄dcā (licet solempnit' exact') non comparuit sed primam fecit defaltam sup quo dies dat' fuit p̄fat' Carolo Frampton in plito p̄dicto secundum

First default. consuetudinem p̄dcā essendi in Cur' dc̄i Dn̄i Regis nunc in Cam̄a Guihald p̄dcā coram p̄fat' Majore & Ald'ris dicto posito die scil vicesimo sexto die Novembris p̄dict' tenend' Idemq; dies dat' fuit p̄fat' Nathanieli Hudson essendi adtunc & ibm secd̄m consuetudinem p̄dcā Ad quem diem scil ad Curiam p̄dcā coram p̄fat' Majore & Ald'ris p̄dc̄o vicesimo sexto die Novembris p̄dc̄o anno tricesimo primo sup̄dc̄o in Cam̄a Guihald p̄d tent' p̄fat' Nathaniel Hudson p Attorn̄ suū p̄dcm̄ in plito suo p̄dicto comparuit & p̄dictus Carolus Frampton ad eandem Cur' secd̄m consuetu-

Second default. dinem Civitatis p̄dict' p̄dcā tent' (licet solempnit' exact') non comparuit sed secundā fecit defaltam sup quo dies dat' fuit adtunc & ibm p eandem Cur' eidem Nathanieli Hudson in plito suo p̄dicto secd̄m consuetudinē p̄dcā usq; ad tunc px' Cur' dc̄i Dn̄i Regis nunc coram p̄fat' Majore & Ald'ris in Cam̄a Guihald p̄dict' vicesimo septimo die Novembris p̄dict' anno tricesimo primo sup̄dicto tenend' & idem dies dat' fuit p̄fat' Carolo Frampton ibm &c. Ad quem diem scil ad Cur' p̄dict' coram p̄fat' Majore & Ald'ris eodem vicesimo septimo die Novembris anno tricesimo primo sup̄dicto in Cam̄a Guihald p̄dict' tent' idem Nathaniel Hudson p Attorn̄ suū p̄dcm̄ in eodem plito suo comparuit & p̄dict' Carolus Frampton in eadem Cur' secundum consuetudinem p̄dict' (licet solempnit' exact' non

Third default. comparuit) sed tertiam fecit defaltam sup quo dies dat' fuit adtunc & ibm p eandem Cur' eidem Nathanieli in plito suo p̄dicto secd̄m consuetudinem p̄dcā usq; ad tunc px' Cur' dc̄i Dn̄i Regis nunc coram dictis Majore & Ald'ris in Cam̄a p̄dict' vicesimo octavo die Novembris p̄dict' anno tricesimo primo sup̄dicto tenend' Idem dies dat' fuit p̄fat' Carolo Frampton essendi ibm ad eandem Cur' secdum consuetudinem p̄dict' ad respondend' eidem Nathanieli Hudson in plito suo p̄dicto &c. Ad quem diem scil ad Cur' p̄dict' coram p̄fat' Majore & Ald'ris p̄dicto vicesimo octavo die Novembris in Cam̄a Guihald p̄dict' secundum consuetudinem p̄dict' tent' p̄dc̄us Nathaniel Hudson in plito suo p̄dicto p Attorn̄ suū p̄dict' comparuit Et p̄dictus Carolus Frampton ad eandem Cur' secundum consuetudinem p̄dcā (licet solempnit' exact') non comparuit

Fourth default. sed quartam fecit defaltam & se Justiciar' non pmisit p forinsecum attach ult' p̄d' secd̄m consuetudinē Civitatis p̄d' p̄dcā Que quidem omēs defalt' ult' p̄mentionat' ad separat' Cur' p̄d' fact' debito modo scil recordat' fuerunt post quas quidam quatuor defalt' ult' p̄d' sup dictum Carolum

Defaults recorded. Frampton secd̄m consuetudinē p̄d' in p̄dicta Cur' dc̄i Dn̄i Regis nunc coram p̄fat' Majore & Ald'ris in Cur' Guihald p̄d' fact' & recordat' idem Nathaniel Hudson p Attorn̄ suū p̄d' adtunc & ibm petijt execuc̄onem de p̄d' triginta libris quatuordecim solidis & sex denar' sic ut permittitur in manib; & custodia p̄d' Ed'ri Pettis attachiat' sup quo ad petic̄onem dc̄i Nathanielis Hudson p Attorn̄ suū p̄dcm̄ in Cur' p̄d' fact' p̄cept' fuit per eandem Cur' p̄fat' servienti ad clavam ac ministro Cur' p̄d' q̄d ipse

Scire facias. secd̄m consuetudinem Civitatis p̄d' p̄mon̄ & scire faceret p̄fat' Ed'ro Pettis essendi in Cur' dc̄i Dn̄i Regis nunc coram p̄fat' Majore & Ald'ris primo die Decembris tunc px' futur' in Cam̄a p̄dcā tenend' &c. ad ostendend' & demonstrand' si quid p se heret vel dicere sciret quare p̄dc̄us Nathaniel Hudson execuc̄onem de p̄dc̄is triginta libris quatuordecim solidis & sex denar' sic ut p̄fertur in manib; & custod' ipsius Ed'ri Pettis attachiat' & defens' c̄ius ipum here non deberet &c. Quo die idem serviens ac minister Cur' p̄d' retornavit & certificavit eidem Cur' tunc ibm tent' q̄d ipse virtute p̄cepti p̄d' sibi in ea parte direct' p̄mon̄

E

& scir' fecit p̄fat Ed'ro Pettis essend' ibm in Cur' p̄d' eodem primo die Decembris &c, prout ei &c. Et p̄d' Ed'rus ad eandem Cur' solempnie exact non ven̄ super quo idem Nathaniel Hudson per Attorn̄ suū p̄dcm̄ ut prius pet executionem de p̄dictis triginta libris quatuordecim solidis & sex denarijs sic ut p̄mittitur in manib; & custodia ipsius Ed'ri Pettis attachiat & defens per sufficien̄ Manucapcon̄ sive Pleg secundum consuetudinem p̄d invenien̄ ad respond̄ p̄fat Carolo Frampton si ipse infra ann̄ & diem tunc px' sequen̄ debm p̄dcm̄ disprobaverit ac de p̄dict triginta libris quatuordecim solidis & sex denar v̄sus p̄d Nathanielem disrocinaverit secdm̄ consuetudinem p̄d Et p eo q̄d satis liquebat eidē Cur ibm q̄d p̄d Anna Pettis in vita sua ac tempore mortis sue debuit ipsi eidem Nathanieli p̄d triginta libras quatuordecim solidos & sex denar in Billa Originali sua p̄d specificat & p̄dcus Carolus Frampton Executor ejus p̄d' p̄dcos triginta libras quatuordecim solidos & sex denarios eidem Nathanieli Hudson post ipsius Anne mortem non reddidit sed injuste detinuit considerat fuit per eandem Cur secdm̄ consuetudinē p̄d Civitatis p̄d q̄d idem Nathaniel heret executionem p̄d' triginta librorum quatuordecim solidorum & sex denariorum in manib; & custodia p̄d Ed'ri Pettis sic ut p̄fertur attachiat & defens & penes se p̄fat Nathanielem p̄d triginta libras quatuordecim solidos & sex denarios retineret in solutionem p̄d triginta librarum quatuordecim solidorum & sex denariorum p manucaptionem p̄d Jacobi Nutley & Johis Mills Civium Civitatis p̄d secdm̄ tenorem Judicij p̄d ad inde respondend p̄fat Carolo Frampton si ipse infra p̄dcos annum & diem venit & debm p̄dcm̄ disprobaverit ac de p̄dcis triginta libris quatuordecim solidis & sex denariis v̄sus p̄fat Nathanielem Hudson disrotionavit secdm̄ consuetudinem p̄dcā Ob cujus quidem defalt idem Nathaniel Hudson p considerationem ejusdem Cur huit executionem de p̄dcis triginta libris quatuordecim solidis & sex denar sic in manib; & custod p̄fat Ed'ri Pettis ut prefertur attachiat & defens secdm̄ consuetudinem Civitatis p̄d &c. prout p recordum & processum inde in p̄dicta Cur Camē Guihald Civitatis p̄d coram Majore & Aldris Civitatis p̄d sicut residen̄ plenius etiam apparet Et idem Ed'rus in facto dic q̄d p̄d triginta libre quatuordecim solidi & sex denarij ad que idem Ed'rus Pettis superius ut prefertur placitavit sunt p̄dict' triginta libre quatuordecim solidi & sex denarij in manibus & custodia ipsius Edvardi ut p̄fertur attachiat ac p̄dicto Carolo Frampton in forma p̄dicta defens & non al neq; diversus q̄dq; p̄dca Anna Pettis in vita sua ac tempore mortis sue debuit eidem Nathanieli Hudson p̄d triginta libras quatuordecim solidos & sex denar ac q̄d p̄d' Carolus Frampton Executor &c. post ipsius Anne mortem p̄dcas triginta libras quatuordecim solidos & sex denarios eidem Nathanieli non solvit sed injuste detinuit ac q̄d p̄d triginta libre quatuordecim solidi & sex denarij tam tempore affirmationis Bille Originalis ipsius Nathanielis p̄d q̄m tempore attachiamenti p̄d fact' & certificationis ejusdem non solut sed injuste detent fuerunt eidem Nathanieli Hudson sup quo ipse idem Nathaniel narravit v̄sus p̄fat Carolum Frampton Executorem &c. modo quo p̄fertur cum hoc q̄d p̄dcus Carolus Frampton in Billa Originali p̄dcī Nathanielis p̄dcā defendens noiat Et p̄dict Carolus Frampton in narratione p̄dcī Caroli Frampton p̄dcā querens noiat sunt una eademq; persona & non al neq; diversa quodq; Judicium & Executio p̄d' p p̄dict triginta libris quatuordecim solidis & sex denarijs adhuc in pleno robore p̄manet & effectu p p̄fat Carolum Frampton minime disrationat seu revocat &c. Et hoc idem Ed'rus Pettis parat est verificare unde pet Judicm̄ si p̄d Carolus Frampton actionem suam p̄d inde versus eum here debeat &c.

Judgment.

Manucaptors.

Execution.

Averment of Identities.

Replic. That the Bonds were made at *Southampton*, not in *London*.

Et p̄dcus Carolus dic' quod ipse p aliqua p p̄dcm̄ Edw̄m supius placitando allegat ab actione sua inde v̄sus eundem Edw̄m hend̄ p̄cludi non debet Quia dic' quod p̄dcā sepal' scripta obligatoria in plito ipsius Edri supius menconat' seu alterius eor̄ facta fuerunt apud Villam Southton p̄dict' in Com̄ ejusdem Ville Absq; hoc q̄d p̄dcā scripta obligatoe fact' fuer' apud Civit' London̄ p̄dict' aut infra Jurisdictionem ejusdem modo & forma p̄ut p̄dcus Edrus supius plitando allegavit Et hoc parat' est v̄ificare unde pet' judiciū & dampna sua accone p̄missa sibi adjudicari &c.

Rejoind. That one of the Bonds was made in *London*.

Et p̄dcus Edrus ut prius dic' q̄d p̄dict' scriptum obligatoriū centum librar̄ in plito ipsius Edri supius plitat' menconat' fact' fuit apud London̄ p̄dict' scil' in parochia Sc̄i Xpoferi London̄ p̄dict' modo & forma p̄ut p̄dictus Edvardus supius plitando allegavit Et de hoc pon̄ se sup p̄riam̄.

Demurrer.

Et p̄dcus Carolus dic' q̄d plitum p̄dci Edvardi supius rejungendo plitat' minus sufficien̄ in lege existit ad ipsum Carolum ab actione sua p̄dca v̄sus p̄fat' Edrum hend̄ p̄cludend̄ quodq; ipse ad plitum illud modo & forma p̄dcis rejungendo plitat' necesse non h̄et nec p legem terre tenetur respondere Et hoc parat' est v̄ificare unde p defectu sufficien̄ rejunctionis in hac parte idem Carolus pet' Judiciū Et damna sua occasione p̄missa sibi adjudicari &c.

Et p̄dict' Edvardus ex quo ipse sufficien̄ materiam in lege ad p̄dcm̄ Carolum ab actione sua p̄dicta v̄sus eum habend' p̄cludend' supius allegavit quam parat' est v̄ificare quam quidem materiam idem Carolus non dedicit nec ad eam aliqualit' respond' sed v̄itatem illam omnino recusat idem Edvardus ut prius pet' Judiciū & q̄d p̄dcus Carolus ab actione sua p̄dicta hend' p̄cludat' &c. Et quia Justic' hic se advisare volunt &c.

Note, Judgment was given pro Quer'. Vide le Livre.

Robinson.

Mich. 33 Car. II. Rot. 440.

Rycaut Gen' *versus* Tomlyn.

Vide *Levinz* Part III. fol. 66.

Action on the Case.

Kanc' ss. Johes Tomlyn nup de Farmingham in Com̄ p̄d' Innholder attach fuit ad respond' Pho Ricaut Gen̄ de plito transg̃e sup Casum &c. Et unde idem Phus p Jodem Wade Attorn̄ suū quer' quare cū p̄d' Johes Tomlyn decimo septimo die Septembr' anno regni Dn̄i Regis nunc tricesimo secundo apud Ashford indebitat' fuisset eidm̄ Pho in octodecim lib' legalis monet' Angl' sup compō int' ipm̄ Phum & p̄fat' Johem ante tunc h̄it & fact' Et sic inde indebitat' existen̄ p̄dict' Johes in Com̄ inde eodm̄ decimo septimo die Septembr' anno supdicto apud Ashford p̄dcā sup se assumpsit & eidm̄ Pho adtunc & ib̄m fidelit' p̄misit q̄d ipse idem Johes p̄d' octodecim lib' eidm̄ Pho sup primum diem Octobr' tunc px' sequen̄ bene & fidelit' solv̄e & contentare vellet Cumq; etiam p̄d' Johes decimo die Octobr' anno Regni dc̄i Dn̄i Regis nunc tricesimo secundo supdicto apud Ashford p̄d' in Com̄ p̄d idem Phus ad spec' instanc' & requisicon̄ ip̄ius Johis vendidisset & deliberasset eidm̄ Johi ad usum ip̄ius Johis ppr̄ viginti & un̄ quarter' Brasij sup se ossum-

Upon Account.

Upon Sale and delivery of Goods to pay as much as they were worth.

assumpsit & eidm Pho adtunc & ibm fidelit pmisit qd ipse idem Johes tant denar summas quant pd' viginti & un quarter Brasij pd' tempore venditonis & deliberatonis eorundem ratonabilit valerent eidm Pho cum inde postea requisit fuisset bene & fidelit solve & contentare vellet Et idem Phus in fact' dic qd pd' vigint & un quarter Brasij pdicto tempore vendicon & delibacon eordm rationabilit valebant octodecim libr legtis monet Angl scil apud Ashford pd Cumq etiam pd' Johes undecimo die Octob' anno 33 supdicto apud A. pdict scil indebitat fuisset eidm Pho in al octodecim libr sitis legtis monet Angl p al Brasio p eundm Phum psar Johi ante tempus illud vendit & delibat Et sic inde indebitat existen pd' Johes in cons inde sup se assumpsit & eidm Pho adtunc & ibm fidelit pmisit qd ipse idem Johes pdcas octodecim libr ulc mentonat eidm Pho cum inde silic postea requisit fuisset bene & fidelit solve & contentare vellet pdcus tamen Johes separal pmission & assumpcon suas pd' sic ut pfertur respective factas mi curan sed machinan & fraudulent intenden ipm Phum de pdcis separal denar sumis in toto se attingen ad 54 l. in hac parte callide & subdole decipe & defraudare easdm 54 l. seu aliquem denar inde eidm Pho juxta separal pmission & assumpcon suas pd' non solvit seu aliqualit p eisdm hucusq contentavit licet ad hoc facien pd' Johes vicesimo die Octobris anno supdicto & sepius postea apud A. pdict p eundm Phum requisit fuisset sed id ei solve omnino recusavit & adhuc recusat ad dampnum ipsius Phi 40 l. Et inde pduc sectam, &c.

Upon *Indebitat' assumpsit.*

Et pdict Johes p Samuel Browne Attorn suu ven & dic qd ipse ad Bre & Narr pdict Phi respondere compelli non debet quia dic qd in Statuto in Parliament Dni Regis Jacobi apud Westm in Com Midd quinto die Novembr anno regni sui Angl &c. tertio tent edit int al inactitat fuit Authoritate ejusdem Parliamenti qd quilibt Papalis Recusans (Angl Popish Recusant) qui fuit aut foret convictus in Papali Recusancia (Angl in Popish Recusancy) staret & reputaretur ad omn intencon & pposita (Angl purposes) dishabilitatus (Angl disabled) ut persona legitime & debite excomunicat ac quasi ipse vel ipsa fuisset denunciat excomunicat secdm Leges hujus Regni Angl quousq ipse vel ipsa sic dishabilitat seipm vel seipa conformaret & ad Ecclam accederet & Servitiu Divinu audiret & Sacramentu Cene Divine Dominice recipet secdm Leges hujus Regni Ac etiam accipet Sacru (Angl the Oath) appunctuat & pscript in uno alio Act fco illa eadm Sessione Parliamenti intitulat An Act for the better discovering and repressing of Popish Recusants Et qd quilibt psona vel psone implitat vel implitand p talem psona sic dishabilitat illa plitaret in dishabilitatem (Angl disabling) talis quc quasi ipsi vel ipsa excomunicat esset put in eodm Statuto (int alia) plen continet Et idem Johes ulterius dic qd pd Phus Papalis Recusans Ad gen delibat existen' Gaole Dni Regis Com sui Kanc tent apud Maidstone in Com pd die Martis vicesimo tertio die Martij anno regni Dni nri Caroli secdi Dei Gra Angl Scot Franc & Hibnie Regis Fidei Defensor &c. Tricesimo secdo coram phonorabil Willo Mountague Capitali Barone Scaccarij dci Dni Regis & Eldred Lanceloto Lee Justic ipsius Dni Regis ad Gaolam suam Com sui Kanc pd de Prison in ea existen deliband assign p Sacrm Thome Bret de Wye Gen Johis Lucas de Lewisham Gen J. R. de P. Gen J. K. de Y. Gen W. W. de S. Gen B. H. de C. Gen E. G. de M. Ar W. P. de C. Gen J. S. de R. Gen B. M. de A. Gen. C. W. de M. Gen J. L. de ead Gen J. F. de B. Gen R. B. de B. Gen & L. S. de C. Gen pbor & legalium homin Com pd adtunc & ibm jurat & onat ad inquirend p dco Dno Rege & corpore Com extitit psentat qd Phus Rycaut nup de poch de Charing in Com Kanc pd Gen vicesimo secdo die Febzuar anno regni Dni nri Caroli Secdi Dei Gra Angl

Plea that the Plaintiff is a Recusant convict.

Stat. 3 Jac. 1.

The Plaintiff indicted for not coming to Church.

Scot Franc & Hibnie Regis Fidei Defensor &c. Tricesimo secdo fuit etatis sexdecim annorum & amplius & non accessit (Angl did not repair) ad Eccl sua prochial pd nec ad aliquam al Eccl Capell sive usual locum cois precationis nec ibm remansit tempore Cois precationis & Divini Servitij ad aliqd tempus infra spacium unius mensis px' sequen pd vicesim secdm diem Febzuar anno 32 supdicto sed voluntarie & obstinate absq ulla licitima causa abstinuit ab eisdem (Angl hath forborn the same) contra forma Statut in humod casu edit & pvis ac contra pacem dcd Dnd Regis nunc Coron & Dignitat suas &c. p quod ad pdca general Gaole delibacon publica Proclamacio facta fuit sup Indictament pd secdm forma Statut in humod casu edit & pvis qd pd Phus Rycaut redderet corpus sum Vic Com pd ante px' general Gaole delibacionem p Com pd tunc px' tenend ad respondend Dno Regi de transgr & contempt in Indictament pd supius specificat aut alit convict foret secdm formam Statut in humod casu edit & pvis Ad quam quidem px' general delibaconem Gaole dcd Dnd Regis Com sui Kanc pd scil ad general delibaconem dcd Dnd Regis Com sui Kanc pd tent apud Milton juxta Gravesend in Com pdict die Martis vicesimo septimo die Julij anno regni dcd Dnd nri Caroli secdi nunc Regis Angl &c. Tricesimo secdo supdicto coram Willo Scroggs Mil Capital Justic dcd Dnd Regis ad plita coram ipso Rege tenend assign & Rico Weston Mil uno Baron Scaccarij dcd Dnd Regis Justic ipsius Dnd Regis ad Gaol sua Com sui Kanc pd de Prison in ea existen delibrand assign pdict Phus Ricaut non fecit comperic suam de Recordo sed defalt fecit Et defalt sua p Cur adtunc & ibm recordat fuit per quod idm Phus Rycaut de pmissis unde ut pfertur Indictat existit licitimo modo convict fuit & existit secdm formam Statut in humod casu edit & pvis put p Recordum inde plenius liquet & apparet Et hoc parat est verificare unde pet Judicium si pdict Johes ad Bre & Narr pdict respondere compelli debeat, &c. Cum hoc qd idem Johes verificare vult qd pdict Phus sic ut pfertur Papalis Recusans convict existen post pdict vicesim septim diem Julii anno tricesimo secdo supdicto & ante diem impetracionis Bris Originalis pdict Pho seipm non conformavit & ad Ecclam non accessit nec Divinum Servitium audivit nec Sacrm Cene Divine Dominice recepit secdum Leges hujus Regni Anglie Et cum hoc qd idem Johes eciam verificare vult qd pdict Judicium & Recordum convictionis pdict Phi adhuc in pleno robore vigore & effectu minime reversat sive adnullat pmanet & existit Et cum hoc eciam qd idem Johes verificare vult qd pdict Phus in Indictament noiat & pdict Phus modo Quer est una & eadem psona & non al neq diversa, &c.

Et pdict Phus dic qd pdict plitum p pdict Johem modo & forma pd supius plitat materiaq in eodm conten minus sufficien in Lege existunt ad retardand ipm Phum de respons ad Bre & Narr sua pdict quodq ipse ad plitum illud modo & forma pdict plitat necesse non het nec p legem terre tenet respondere Et hoc parat est verificare unde p defectu sufficien pliti ipsius Johis in hac parte idem Phus pet Judicium Et qd pdict Johes ad Bre & Narr sua pdict respond' &c.

Et pdict Johes ex quo ipse sufficien materiam in Lege ad retardand ipsum Phum p respons suo ad Bre & Narr pdict Phi supius allegavit quam ipse parat est verificare quam quidm materiam pdict Phus non dedic nec ad eam aliqualit respond' sed verificationem ill admittere omnio recusavit Idem Johes ut prius per Judicium & quod ipse ad Bre & Narr pdict respondere non compelletur &c. Et quia Justic hic se advisare volunt &c.

Proclamation that the Plaintiff render his Body to the Sheriff, *&c.*

That he did not appear.

The Plaintiff convict.

Averment that the Plaintiff did not conform.

Averment that the Judgment and Record are in force.

Identity averred.

Demurr' general.

Joynder in Demurr'.

Plea adjudged good.

Trin.

Trin. 32 Car. II.

Philips & al' *versus* Thompson.

Vide *Levins* Part III. fol. 191.

Pl'ta apud Westm' coram Francisco North Mil' & Socijs suis Justic' Dom' Regis de Banco suis Termino Sanctæ Trinitatis anno Regni Dom' Caroli secundi Dei Gratia Angliæ Scotiæ Franciæ & Hiberniæ Regis Fidei Defensoris, &c. Tricesimo secundo. Rot. 1141. continetur sic:

Stat. 21 Jac. 19. Stat. Frauds & Perjuries. Debr. 67. Dr. Harris's Case in Scaccario. Baily & Bunning's Case, Sid. 271.

Suff. ss. Willus Thompson nup de London Mercator Scissor attach fuit ad respond' Rico Philips & Josepho Shallet assign debor Thome Watkins Decoctoris de plito transgr sup casum Et unde ijdem Ricus & Josephus p Ricum Pupplett Attorn suu Querent quare idem pdict Thomas decimo die Septembris anno regni Dni Regis nunc apud Gippin indebitat fuisset eisdem Rico & Josepho ac gnibusdam Johi Harrison Gen & Thome Sidney & divsis alijs psonis Creditorib ipsius Thome Watkins existen subdit dci Dni Regis nunc in magnis denar Sumis in toto se attingen ad quadringent viginti & octo libras duos solid' & quatuor denar legalis monet Angl ipsorq Thoma Watkins sic inde indebitat existen ac eodem Thoma adtunc querente facultatem suam vivendi nup viam emendi & vendendi idem Thomas postea scil tricesimo die Septembris anno tricesimo supdicto apud Gippin pdict eisdem Rico Josepho Johi & Thome Sidney & ceteris Creditoribus pdict Thome Watkins de debis suis pdcis eis p ipm T. W. ut pfertur debit & min solut existen manifeste devenit Decoctor videl primo incepit custodire domum sua (Angl did begin to keep his house) eodem Thoma in domo sua mansionali in Gippin pdict tunc inhitan ea intencon ad defraudand' Creditores suos de separalibus debis suis eis p ipm T. W. ut pfertur debit Et supinde eodem tricesimo die Septembris anno tricesimo supradicto apud G. pdict manifeste devenit Decoctor (Angl be came a Bankrupt) infra provision separat Statutor vsus Decoctores edit vel un eor Qui quidem T. W. pdicto tempore quo ipse ut pfertur devenit Decoctor & diu antea fuit subdit dci Dni Regis nunc videlt apud Gippin pdict' Ac adtunc ac p multos annos tunc ult elaps ut pfertur querebat facultatem suam vivendi (Angl did seek his Trade of living) p viam emendi & vendendi videlt apud G. pdict Cumq etia postea scil decimo die Octobris anno Regni Dni Regis nunc tricesimo supradicto ad peticon pdict Josephi tm p seipso qm p oib alijs Creditorib pdict T. W. phonorabili Heneagio Finch Baron de Daventry summo Anglie Cancellar in scripto fact & exhibit apud Westm in Com Midd' secundum formam Statuti in humod casu nup edit & pvis p remedijs vsus pfat T. W. tunc Decoctorem existen in hac parte hend' eodem Josepho & ceteris Creditorib pd' Thome Watkins de debis suis eis ut pfertur debit min solut seu satisfact' existen quedam Commissio dci Dni Regis nunc fundat sup Statut contra Decoctores in humod casu edit & pvis sub Magno Sigillo suo Angl sigillat geren dat apud Westm pdicto decimo die Octobris anno tricesimo supradicto quibusdam Xpofero Milton Ar Ed'ro Coleman jun Ar Johi Lamb Gen Ed'ro Coleman sen Gen & Barnabe Gibson Gen direct' & adtunc videt apud G. pdict eis delibat fuit p quam quidem Comissionem dictus Dominus Rex nunc recitan qd ipe idem Dominus Rex informat fuisset qd

Indebitat' assumpsit by Assignees of the Commissioners of Bankrupts.

That the Bankrupt was indebted.

His absconding.

His Trade of buying and selling.

Petition to the Lord Chancellor.

Commission granted and recited.

pd'

pd' Thomas Watkins p nomen Thome Watkins de Gippin in Com Suff' Vintener uten & exercen Artem Merchandizandi (Angl Trade of Merchandize) p modum barganizandi excambij mutandi (Angl Bartering) & commutationes (Angl Chevisance) querens Artem suam (Angl his Trade) vivendi emendo & vendendo circa tres menses tunc ult pteri: devenit Decoctor (Angl a Bankrupt) infra separal Statut contra Decoctor nup edit ea intencone ad defraudand & impediend ipm Josephum Shallett & al Creditores suos de eor justis debit & debitis (Angl Debts and Duties) eis debit & debis idem Dnus Rex nunc intenden debam execuconem tam Statut tangen Ordines p Decoctorib3 fact in Parliamento inchoat & tent apud Westm secdo die Aprilis anno Regni Dne Elizabethe nup Regine Angl tertio decimo edit & pvis quo Statut edit in Parliamento inchoat & tent apud Westm pd decimo nono die Martij anno regni Dni Jacobi nup Regis Angl Franc & Hibnie primo & Scot tricesimo septimo intitulat Actus p melior relevio Creditor vsus tal qual devenir Decoctores Necnon Statut edit in Parliamento inchoat & tent apud Westm pd 19 die Februarij anno Regni dci nuper Regis Jacobi Angl Franc & Hibnie vicesimo primo & Scot tricesimo septimo intitulat Actus p ulteriori descripcon Decoctor & relevio Creditor vsus tles quales deven' Decoctor Dnus Rex nunc p eandem Comissionem nominavit assignavit & appunctavit constituit & ordinavit pdcos Xpoferum Milton Ar Edrum Coleman sen Ar

Commissioners Names.

Johem Lamb Gen & Barnabam Gibson Gen special Commissionar ipsius Dni Regis dat plenam potestat & authoritat eisdem Comissionar quatuor vel trib3 eor quor pd Xpoferus vel Edrus Coleman jun fore un secdm eadm Statut & quodlibet vel aliquod eorum non solu concernen pd Decoctores ejus corpus terr tenta liba & customar bona deba & al res quascunq verum etiam concernen omnes al psonas que per concealament clam vel alit tunc offendissent vel offenderent tangen pmissa vel aliquam partem inde contra vam intencon & pposit Statut pd vel alicujus eor ad faciend & exequend omnem & quamlibt rem & res quascunq tam erga satisfactione & solucone Creditor pdict qm erga & p omnib3 alijs intenconib3 & ppositis secdm Ordinacon & Provision eordm dcus Dnus Rex nunc & p eandm Commissionem volens & requirens pd Commissionar quatuor vel tres eor quor pd Xpoferus Milton vel Edrum Coleman jun fore un pcedere ad execucon & complement (Angl accomplishment) Commission illius secdu vam intencon & pposit eor Statut in omn diligenc & effect sicut fiducia ipsius Dni Regis in eisdem Commissionar fuit put p eandem Commissionem in Cur Cancellar dci Dni Regis nunc apud Westm pd irrotlat & ibm de record remanen plenius apparet Cumq etiam pd Willus postea scilt ultimo die Augusti anno Regni Dni Regis nunc tricesimo primo apud Gippin pd huisset & recepisset summam quadringentar

That the Defendant received 400 *l.* of the Bankrupt's Money after he became a Bankrupt.

librar legalis monete Anglie existen denar pvenien & surgen de vendicone quordm bonor & catallor pd Thome Watkins post tempus quo ipse ut pfert Decoctor devenit pdictisq 400 l. in manib9 pd Willi sic existen postea virtute Commission pd ac vigore Statut pd pd Xpoferus Milton E. C. jun & E. C. sen tres Commissionar de Commission pd accept sup se onde Commission pd 29 die Octobris anno Regni dci Dni Regis nunc 31 supdicto pd 400 l. p ipsum Willum Thompson sic ut pfertur hit & recept in manib3 suis tunc existen apud G. pd p quandm Indentur int pd Xpoferum Milton E. C. jun & E. C. sen Gen p nomina Xpoferi Milton de G. in Com S. & E. C. de G. pd jun Ar & E. C. sen de eadem Villa Gen ex una parte & pdcos R. P. & J. S. p nomina R. P. de G. pd Mercatoris & J. S. de Civitat London Mercatoris Scissoris ex altera parte fcam cujus quidem Indentur unam partem sigillis pdcor C. M. E. C. jun Ar & E. C. sen Gen signat

ijdem

ijdem R. P. & J. S. hic in Cur' pser cujus dat eisdm die & anno recitando qd ijdem Commissionar ordinassent adjudicassent & declarassent & p eandem Indentur ordinaver adjudicaver & declaraver pd Thomam Watkins fore Decoctorem infra Statut pd aut unu vel eor aliquod Et pdci Commissionar partes ad Indentur pd in ulteriorem execucon Commission pd Ac virtute ejusdem & Statut pd p & in consideracon convencon ex partib ipsor R. P. & J. S. in eadem Indentur mencoñat quatenus in se fuit & licitime potuissent p eandem Indenturam ordinaver barganizaver vendider & assignaver pfat Rico Phillips & J. S. Executor & Administrator suis pd Summam 400 l. (int alia) hend' & tenend' requirend' sectand' recupand' & recipiend' easdem 400 l. eisdem R. P. & J. S. Exec & Adm suis sup confidenc tamen videlt ad & p usu & commodo & beneficio (Angl advantage) dictor R. P. & J. S. & tal al creditor dcd T. W. quat venissent & quesivissent relevim vel imposterm accederent virtute Commission pdicte secdm limitacon & direction dictor Statutor in dicta Commission mencoñat vel infra aliquod vel unu eorum put p eandem Indentur hic in Cur' plac int alia plenius apparet p quod & racone pmiss pd' Willus Thompson postea scilt eodem 29 die Octobris anno tricesimo primo supdicto apud G. pd' devenit indebitat eisdem R. & J. in pdictis 400 l. & sic inde indebitat existen pd' W. T. eisdem die & anno apud G. pd' in cons inde sup se assumpsit & eisdem R. & J. adtunc & ibm fidelit pmisit qd ipse pdict' Willus easdem 400 l. eisdem R. & J. cum inde postea requisit fuisset bene & fideliter solve & contentare vellet pd' tamen W. pmissa satis sciens pmission & assumpcon suas pd' mie curan sed machinan & fraudulent intenden eosdem R. & J. in hac parte callide & subdole decipe & defraudare pd' 400 l. seu aliquem denar inde eisdem R. & J seu eorum alteri non solvit licet ad hoc p eosdem R. & J. postea scilt primo die Novembris anno tricesimo primo supradicto & sepius postea apud G. prdict' requisit fuit set ill eis hucusq solvere omnino recusavit & adhuc recusat ad dampnum ipsorum R. & J. 500 l. Et inde pduc sectam &c.

Assignment of the said Debt of 400 l. by the Commissioners to the Plaintiff.

And so the Defendant became indebted.

Et sic indebit' assumpsit.

Et pd Willus & Johem Meres Attorn sun ven & defend vim & injur quando &c. Et dic quod ipse non assumpsit sup se modo & forma put pdict' R. P. & J. S. supius vsus eum queruntur Et de hoc pon se sup priam Et pdict' R. & J. silit' &c. Jd pcept est Vic quod Venire fac hic a die Scr Trinitat in tres septimanas duodecim &c. p quos &c. Et qui nec &c. Ad recogn &c. Quia tam &c. Ad quem diem jur inter partes pdict' de plito pdict' ponitur in respcm hicusq a die Scti Michis in tres septiman Nisi Justic Dnd Regis ad Assias in Com pdict' capiend assign p formam Statuti &c. die Jovis vicesimo nono die Julij apud Bury Scti Edmundi in Com pdict' prius ven Et modo hic ad hunc diem ven tam pdict' Ricus & Josephus p Attorn suos pdcos Et pfat Justic ad Assias coram &c. mis hic Record sun in her verba Postea die & loco infra contenc coram Willo Mountagu Capital Baron Scaccarij Dnd Regis & Hugone Windham Mil un Justic dcd Dnd Regis de Banco Justic ipsius Dnd Regis ad Assias in Com Suff' capiend assign p formam Statuti &c. ven tam infranoiat Ricus Phillips & Josephus Shallett qm infranoiat Willus Thompson p Attorn suos infracontenc Et jur jure unde infra fit menco exact' quidam eor videlt Anthus Sparrow Laurencius Wright Thomas Corkfedge Samuel Snelling Robtus Meane & Daniel Clench ven & in jur pdict' jurat existunt Et quia resid jur ejusdem jur' non comparuer Jd alij de circumstantib p Vic Com pd ad hoc elci ad requisicon pd Ricd Phillips & Josephi Shallet ac p mandat Justic pd de novo apponuntur quor nomina Panello infrascript affilantur secdm formam Statuti in humod Casu nup edic & pvis Ac jur sic de novo apponit videlt

Plea Non assumpsit.

Issue.

Nisi prius.

Tales.

videlt Thomas Rasyn Robtus Nunne Jacobus Barber Nichus Dodson Heni Symonds & Ricus Lucas exac' filit ven qui ad veritat de infracontent simulcum al Jur p̄dict' prius impannellat & jurat dicend elct triat & jurat dicunt sup Sacrm suu quod infranoīat Thomas

Spec' Verdict.

Watkins primo die Aprilis anno regni dci Dni Regis nunc vicesimo octavo & p multos annos tunc ult elaps & continue postea usq; ad nocte tricesimo diei Septembris anno regni dci Dni Regis nunc tricesimo querebat facultatem suam vivendi (Angl did seek his Trade of living)

The Jury find his Trade.

p viam emendi & vendendi in Arte sive Mysterio Vinitar apud Gippin infrascript & durand toto tempore p̄dict' fuit subdit dci Dni Regis nunc quodq; p̄d Thomas Watkins primo die Aprilis anno vicesimo octavo supdicto juste & vere indbeitat fuit infranoīat Willo Thompson in suma Sexcent Librarum legalis monet Angl p Vino p p̄d Willum p̄fat Thome p̄antea vendit & delibat & sic inde indebitat existen ipse p̄d Willus Thompson postea scilt Term Pasche anno vicesimo octavo supdicto in Cur dci Dni Regis de Banco apud Westm in Com Midd p Judicium ejusdem Jur recupasset versus infranoīat Thom Watkins tam p̄d debm Sexcent Librarum qū centu solidi qui eidem Willo in eadem Cur adjudicat fuer p dampnis suis que huit occasione detenꝯone debi illius unde convict' fuit Quodq; p̄d Willus Thompson de debo & dampnis p̄d aut aliqua inde p̄cell mie solut exist' nec aliqua execu-tione sup Judic ill hit existit Termino Sci Miche anno regni dci Dni Regis nunc vicesimo quoddam Bre dci Dni Regis de Scir fac de & sup p̄dicto Judicio psecut fuit & supinde tlie fuit pcess in eadem Cur dci Dni Regis de Banco p̄d p Judicium Cur ill cons fuit quod p̄d Willus heret execucon v̄sus p̄fat Thomam de debo & dampnis p̄d p ipsius Thome defalt Et Jur p̄d ulterius dic sup Sacram suu p̄d qd p̄d Willus Thompson postea scilt decimo nono die Junij in Termo Sce Trin anno Regni dci Dni Regis nunc tricesimo p recupatione debi & dampnoꝝ p̄d adtunc insolut existen debo modo psecut fuisset extra Cur dci Dni Reg de Banco p̄d Westm p̄d quoddam Bre dci Dni Reg de Fi fac v̄sus p̄d Thom Watkins sup Judicio p̄dicto tunc Vic Com Suff' direct' p quod quidem Bre dcus Dnus Rex eidem tunc Vic p̄cepit quod de terris & catallis p̄d Thome Watkins in Balliva sua existen Fi Fa debm & dampna p̄d Et quod denar ill heret coram Justic dci Dni Regis apud Westm in Cro Aiaꝝ tunc px' sequen ad reddend p̄fat Willo de debo & dampnis p̄d unde convict fuit & unde cons fuit in eadem Cur dci Dni Regis quod p̄d Willus heret execucon v̄sus p̄fat Thomam p defalt ipsius Thome put p Cop Record sepal Judic & Bris p̄d Jur pdcis modo hic in Evidenc dat apparet Et ijdem Jur ulrius dic quod Bre de Fi Fa postea & ante retorn ejusdem scilt tricesimo die Septembris anno tricesimo supdicto in mane ejusdem diei p p̄fat Willum Thompson cuidam Willoughby Dewes Bar tunc Vic Com Suff' delibat fuit in forma juris exequend debit & dampna p̄d aut aliqua inde pcella mie solut existen quodq; idem Vic sup recepcon ejusdem secdm formam Statuti in eo Casu edit & pvis fecit indorsament sup Bri illo quod ipse eodem die & anno recepisset Bre p̄d Et ijdem Jur ulrius sup Sacram suu p̄d dic quod p̄d Thomas Watkins postea & ante execucon ejusdem Bris scilt eodem tricesimo die Septembris anno tricesimo supdicto notitiam huit p p̄d Willum Thompson de Bri p̄d & de intenꝯone sua illud exequend quodq; p̄d Thomas Watkins post delibacon p̄d' Bris p̄fat Vic & post notic inde sibi ut p̄fertur dat scilt in nocte ejusdem diei seipsum a domo manꝯonali sua in G. p̄dict absentabit & adtunc & ibm scilt in nocte ejusdem tricesimi diei Septembris anno tricesimo supdicto primo devenit Decoctor (Angl Bankrupt) Et Jur p̄d' ulterius sup Sacr suu p̄dict dic quod p̄fat Vic postea & ante retorn Brevis scilt primo die Octobris anno tricesimo supdicto

And that he was indebted to the Defendant in 600 *l.* *Pasch.* 28 *Car.* 2. Defendant had Judgment for the 600 *l.*

29 *Car.* 2. Execution on *Scir. Fac.*

By *Fier. Fac.*

Which was delivered to the Sheriff 30 *die Septemb.* 30 *Car.* 2. in the morning.

And the Bankrupt having notice thereof, the night of the same day absconded, and so first became a Bankrupt.

supdicto virtute Bris ill quedam bona & catalla ipsius Thome Watkins ad valenc quadringent librar pcell debi & dampnor pd' in manus suas cepit & seisivit & bona & catalla ill quibusdam al psonis vendidit p pd 400l. & pd summam 400l. pfat Willo Thompson postea & ante confeccon scd Assignacon hic postea mencionat solvisset Et ijdem Jur ulterius sup Sacram suu pd' dic qd pd' Thomas Watkins antequam ipse ut pfertur devenit Decoctor indebitat fuit eisdem Rico & Josepho & al Creditorib3 in Narr pdca infrascript mencionat in sepal Summis attingen ad infrascript 428 l. 2 s. 4d. Et sic inde indebitat existen postea scilt infrascript decimo die Octobris anno tricesimo supdicto ad peticonem pdict Josephi Shallett in Narr infrascript interius mencionat & modo infrascript fact & exhibit Comissio in Narr pdict interius specificat emanavit Et Jur pdict ulterius sup Sacram suu pdict dic quod virtute Commission pdict ac vigore Statuti in Narr infrascript Xpoferus Milton Edrus Coleman jun & Edrus Coleman sen tres Commissionar infranoiat fecer & ut fact suu delibaver quandam Indenture suam sigill cor sigillat int pdict ipsos Xpoferum Milton E. C. jun & E. C. jun ex una parte & pdict Ricum Phillips & Josephum Shallett ex altera parte Tenor cujus quidem Indentur in hec verba sequitur: This Indenture made the 29th day of *October* in the 31st year of the Reign of our Sovereign Lord *Charles* the Second by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* *Annoq; Dom.* 1679. between *Christopher Milton* of *Ipswich* in the County of *Suffolk* and *Edmund Coleman* of *Ipswich* aforesaid Esq; and *Edmund Coleman* sen. of the same Town Gent. of the one part, and *Richard Phillips* of *Ipswich* aforesaid Merchant, and *Joseph Shallett* of the City of *London* Merchant-Tayler, of the other part. **Whereas** the King's Majesty's Commission under the Great Seal of *England*, bearing date at *Westminster* the Tenth day of *October*, which was in the Thirtieth Year of his said now Majesty's Reign, grounded upon the several Statutes made against Bankrupts, hath been awarded against *Thomas Watkins* of *Ipswich* aforesaid Vintner, directed to the said *C. M. E. C.* and *E. C.* sen. together with *John Lamb* and *Barnaby Gibson* Gen. thereby giving full Power to the said Commissioners, Four or Three of them, whereof the said *C. M.* or *E. C.* Esq; to be one of them, to execute the same, as by the said Commission, relation being thereunto had, doth and may more fully appear. And whereas the said Commissioners, Parties to these Presents, having put the said Commission in execution, upon due Examination of Witnesses, and Proof upon Oath before them taken, do find that the said *Thomas Watkins* for several Years last past did seek his living by buying and selling of Wines and other Commodities; and that he the said *Thomas Watkins* by reason of such his Trading and Dealing, became indebted unto *Richard Phillips* and *Joseph Shallet*, and also to *John Harrison* Gen. and *Thomas Sidney*, as Partners to the said *Thomas Sidney* upon his own particular Account, and to *William Wade* and *John Howell* in divers Sums of Money, amounting in the whole to 428 *l.* 2 *s.* 4 *d.* and upwards, and being indebted as aforesaid, he the said *Thomas Watkins* did upon or about the 30th day of *September* which was in the year of our Lord 1678. in the Judgments of the said Commissioners, Parties to these Presents, become Bankrupt to all intents and purposes, within the compass, intent and meaning of the several Statutes in the said Commission mentioned, or within some or one of them, by absenting and absconding himself from his then known dwelling-house in *Ipswich* aforesaid, into places unknown and remote, and for having ever since so absconded and absented himself for fear of being arrested at the Suit of some or one of his Creditors, with design and intent to defraud his Creditors of their just Debts and Dues; whereupon, and upon other sufficient Causes to the said Commissioners, Parties to these Presents, appearing, they the said Commissioners

1 *Oct.* 30 *C.* 2. the Sheriff levied 400 *l.* of the Goods of the Bankrupt, and delivered the same to the Defendant before the Assignment.

They find the Commission,

And the Assignment in *hæc verba.*

ners, Parties to these Presents, have deemed, adjudged and declared, and by these Presents do deem, adjudge and declare the said *Thomas Watkins* to be a Bankrupt within the said Statutes, or some or one of them. And whereas they the said Commissioners, Parties to these Presents, have found out and discovered that since such time as the said *Thomas Watkins* became Bankrupt as aforesaid, there hath come into the hands of *William Thompson* Citizen and Merchant-Tayler of *London* the Sum of 450*l.* in Money, and also a parcel of Wines to the value of 40*l.* which was due and owing to the Estate of the said *Thomas Watkins*, or part thereof, and thereunto belonging, and ought to be shared and divided amongst the said Creditors of the said *Thomas Watkins*, for and towards satisfaction of their just Debts aud Dues. **Now this Indenture witnesseth,** That the said Commissioners, Parties to these Presents, in further Execution of the said Commission, and by vertue thereof, and of the Statute therein mentioned, and for and in consideration of the Covenants hereafter in these Presents on the parts and behalfs of them the said *Richard Phillips* and *Joseph Shallett* have ordered, bargained sold and assigned, and by these Presents do, as much as in them lie, and they lawfully may, order, bargain, sell and assign unto the said *Richard Phillips* and *Joseph Shallett*, their Executors and Administrators, the aforesaid Sum of 400*l.* and the said parcel of Wines, and every part thereof, now in the hands of the said *William Thompson*, and from him due to the Estate of the said *Thomas Watkins*, or part thereof as aforesaid, **To have and to hold,** demand, sue for, recover and receive the said 400 *l.* and the said parcel of Wines, and every part thereof, unto them the said *Richard Phillips* and *Joseph Shallet*, their Executors and Administrators, upon Trust, nevertheless, that is to say, to and for the use and behoof and advantage of them the said *Richard Phillips* and *Joseph Shallett*, and such other of the Creditors of the said *Thomas Watkins* as have already come in and sought relief, or hereafter shall come in by vertue of the said Commission, according to the limitation and direction of the same Statutes in the said Commission mentioned, or within some or one of them. **Prout p eandm Indentur eisdm Jur in Evidenc pducc inr al pleni9 apparet Et Jur pd' sup Sacram sum pd' ulterius dic qd pd' 400 l. sic ut pfertur levar sunt eedm 400 l. que in facto assignacon pd' sunt assignar sed utrum sup tota materia pd' p Jur pd' in forma pd' compr videbitur Justic dcd Dnd Regis nunc hic qd pd' Willus Thomas assumpsit sup se modo & forma put pd' Ricus Phillips & Josephus Shallett interius queruntur necne Jur pd' penitus ignorant Et per advisamenr Cur in pmissis Et si sup tota materia pd' p Jur pd' in forma pd' compt videbitur Justic dcd Dnd Regis nunc hic qd pd' Willus Thompson assumpsit sup se modo & forma put pd' Ricus Philipps & Josephus interius queruntur tunc Jur pd' sup Sacram sum pd' dic qd pd' Willus Thompson assumpsit sup se modo & forma put pd' R. P. & J. S. interius vsus eum quer & assidunt dampna ipsoru R. & J. occone non pformacon pmission & assumpcon infrascript ultra mis & custag sua p ipsius circa sectam suam in hac pte suppoit ad 400 l. Et p mis & custag ill ad 40 s. Et si sup tota materia pd' p Jur pd' in forma pd' compt' videbitur Cur dcd Dnd Regis nunc hic qd pd' Willus Thompson nonassumpsit sup se modo & forma put ipse interius plitando allegavit tunc ijdem Jur sup Sacram sum pd' dic quod pd' Willus non assumpsit sup se modo & forma put ipse idem Willus interius plitando allegavit Et quia Justic hic se advisare volunt &c.**

The doubt of the Jury.

*

Mich.

Mich. 2 W. & M. Rot.

Kemp *versus* Andrews.

Levinz Part . fol.

London ss. Memorand' qd die Jovis px' post septimanas Sci Michis isto eodm Term coram Dno Rege & Dna Regina apud Westm ven Francus Kemp mercator p Edrm Shaller Attorn suu & ptulit hic in Cur dictor Dni Regis & Dne Regine tunc ibm quandam Billam suam vsus Jonathan Andrews Nautam in custodia Mar &c. de plito transgr' sup Casum Et sunt Pleg de psequend' scilt Johannes Doe & Richardus Roe Que' quidem Billa sequitur in hec vba ss. London ss. Francus Kemp Mercator Queritur de Jonathano Andrews Nauta in custodia Marc Maresc Dni Regis & Dne Regine coram ipis Rege & Regina existen p eo videlt qd cum idem Francus & quidam Galfridus Nightingall & Johes Denning modo defunct' quos idem Francus supvixit in vitis ipsor Galfrd & Johis scilt 20 die Novembris Anno Dni 1686. apud London pd' videlt in parochia be Marie de Arcub in Warda de Cheape possessionat fuer de bonis & catallis sequen videlt de una Nave vocat the Streights Merchant, cum omnib armamenc apparat & suppeditamenc ejus un Cymba triginta peciis Bombard' (Angl Ordinance) ducentis nonaginta & duob centen & dimid' unius centen & viginti un libr' (Angl Pound weight) Olivan (Angl of Olivanum) centum sexaginta & novem centen & un quartec unius centen & septendecim libris de Aloes Socatrina mille octingentis & triginta quinq centen & dimid' unius centen libr' Bacca choave (Angl Coffee-berries) centum & novemdecim centen & dimid' unius centen & trib libris Myrrhe quinquaginta duab mille ducentis octaginta & quatuor libris Serici inelaborati (Angl Raw-Silk) noningentis & viginti peciis panni Callicutioni (vocat large Kerribundo) ducentis & octoginta al peciis panni Calicutiani (vocat small Kerribundo) ducentis peciis al panni Callicutiani (vocat Chints moley) noningentis & sexaginta peciis al panni Calicutiani (vocat fine Chints) &c. ad valenciam viginti mille librar legalis monete Angl ut de bonis & catallis ipsius Francd & pfat Galfrd & Johis in vita ipsor Galfrd & Johis ppr' Et sic inde possessionat existen idem Francus & pfat Galfrid' & Johes postea in vita ipsor Galfrd & Johis scilt eisdem die & anno supradictis apud London pd' in Parochia & Warda pd' bona & catalla pd extra manus & possecon suas casualic pdider & amiser que quidem bona & catalla postea scilt eisdem die & anno supdictis apud London pd in Parochia & Warda pd ad manus & possecon ipsius Jonathani p invenconem devener pd tamen Jonathan satis sciens bona & catalla pd fore bona & catalla ipsius Francd & pfat Galfrd & Johis & ad ipsos Francm Galfrm & Johem in vitis ipsor Galfrd & Johis (quos idem Frankus supvixit) de jure spectare & ptinere machinans tamen & fraudulenc intenden ipsos Francm Galfrm & Johem in vitis ipsor Galfrd & Johis (quos idem Frankus supvixit) callide & subdole decipe & defraudare bona & catalla pd licet sepius requisic &c. eidem Franko & pfat Galffo & Johi in vitis Galfrid & Johis vel eor alicui seu eidem Franko post mortem ipsor Galfrid & Johis non delibavit sed bona & catalla pd postea scilt eisdem die & anno supdictis apud London pd in Parochia & Warda pd in usum & comodum

Case sur Trover, by a surviving Merchant.

commodum ipsius Jonathani ppr' convertit & disposuit ad dampnum ipsius Franc Kemp triginta mille librarum. Et inde produc sectam &c.

Et pd Jonathan Andrews p Basil Herne Attorn suu ven & defend vim & injur quando &c. Et dic qd pd Frankus Kemp actonem suam pd Osus eum here seu manutenere non debet Quia dic qd pd Frankus Kemp & pd Galfridus Nightingall & Johes Penning in Narr pd supius noiat diu ante pd separal tempora in quib; supponitur possession omission convcon & disposicon bonor & catallor pd in Narr pd mentonat here & fieri necnon eisdem separalib; temporib; in quib; &c. fuer Mercator ac ut conjuncti Mercatores ad coem utilitatem ipsor Franc Galfrd & Johis de pd bon & catallis in Narracone pd mentonat' possessionat fuer videlt aqud London pd in Parochia & Warda pd Quodq; p Legem Mercator & Legem infra hoc Regnu Angl usitat & approbat non est nec unqm fuit aliquod jus accrescendi (Angl Survivorship) inter Mercatores conjunctos (Angl Joint-Merchants) Et pd Jonathanus ulterius dic qd pd Galfrus Nightingall ante exhibiconem Bille pd scilt sexto die Julij nunc ult preit apud London pd in Parochia & Warda pd condidit Testm & ult Voluntatem sua in scriptis & adtunc & ibm ordinavit & constituit quandam Annam Nightingale & Bridges Nightingale Executor ejusdem ult Voluntatis sue pd Qui quidem Bridges Nightingale post mortem ipsius Galfrd Nightingale & ante exhibicon Bille pd scilt primo die Octobris nunc ult preit apud London pdict' in Parochia & Warda pd eandem ult Voluntatem ipsius Galfrd Nightingale pd debo juris forma pbavit ac onus Execucones inde sup se suscepit & adhuc ibm supstes & in plena vita existit Et pd Jonathanus ulterius dic qd pd' Johes Penning ante exhibiconem Bille pd' scilt die anno & loco pd' condidit Testm & ult Voluntatem sua in scriptis & adtunc & ibm ordinavit & constituit quendam Elizabetham Penning Executricem ejusdem ult Voluntatis sue pd Que quedam Eliza post mortem ipsius Johis Penning & ante exhibicon Bille pd scilt die anno & loco pd eandem ult Voluntatem ipsius Johis Penning pd debo juris forma pbavit ac onus Execucon inde sup se suscepit & adhuc ibm supstes & in plena vita existit Et hoc parat est verificare unde pet judicm si pd Frankus actionem suam pd inde versus eum here seu manutenere debeat &c.

Defendant pleads that they were Joint-Merchants,

And so there ought to be no Survivorship.

That one deceased Merchant made a Will, and left Executor, who proved it, and is living.

And that the other deceased Executor made his Executor, who proved the Will, and is living.

Tremaine.
W. Thompson.

Et pd Frankus dic qd ipse p aliqua p pd Jonathan supius plitando allegat ab actione pd inde versus ipsum Jonathan hend' pcludi non debet quia dic qd plitm pd' p pd' Jonathan modo & forma pd' supius plitat materiaq; in eodem content minus sufficien in lege existunt ad pd Frankum ab actione sua pd' inde versus pd' Jonathan hend' pcludend' Ad quod quidem plitm ipse idem Frankus necesse non het nec p legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficien respons in hac parte ipse idem Frankus per judicm & dampna sua occasione pmissor pd' sibi adjudicari &c. Et p causa moracon in lege sup plito illo idem Frankus secdm form Statuti in hujusmod casu inde nup edit & pvis ostend' & Cur hic demonstrat has Causas subsequen videlt Eo qd plitm pd' tendit ad general exitu & non respond' ad materiam in Narracone pd' content quodq; plitum pd' est omnino incert duplex & caret forma &c.

Plaintiff demurs to the Plea specially.

Causes.
1. It amounts to the general Issue.
2. It is duplex, &c.

B. Shower.

Et

Et pd' Jonathan dic' qd plitm pd' p ipsum Jonathan modo & forma pd' supius pritat materiasq; in eodem contene bon & sufficiend in lege existunt ad pd' Franklin ab actione sua pd' inde Usus ipsum Jonathan hend' precludend' quod quidem plitum materiasq; in eodem contene ipse idem Jonathanus parat est verificare & pbare put Cur &c. Et quia pd' Frankus ad plitm ill non respond' nec ill hucusq; aliqualit dedic ipse idem Jonathanus (ut prius) pet judicm Et qd pd' Frankus ab actione sua pd' inde Usus ipm Jonathanum hend' precludatur &c. Sed quia Cur dicoz Dnd Regis & Dne Regine nunc hic de judicio suo de & sup pmissis reddend' nondum advisat dies inde dat est partib; pd' coram Dno Rege & Dna Regina apud Westm usq; diem pr' post de judicio suo de & sup pmissis audiend' Eo qd Cur dicoz Dnd Regis & Dnd Reginæ inde nondum &c. Joynder in Demurr'

Pasch. 3 W. & M.

Pearson *versus* Hundred' pro Roboria.

Levinz Part III. fol. 320.

Westm' ss. Hodes inhitantes in Hundredo de Westward in Com pd' attach fuer ad respondend' tam Dno Regi & Dne Regine nunc quam Johi Pearson de plito quare cum in Statuto Parliam Dni Edwardi nup Regis Angl' primi apud Winton anno Regni sui tertiodecimo tenc edic int cetera Ordinat sic p eo qd de die in diem Roborie Homicidia & Incendia plus solito tunc fiebant quam antea solebant & Felones non potuissent esse attinci p Sacram Jur qui magis voluntarie pmittebant gentes extraneas depredari (Angl' to be robbed) & felones evadere absq; pena quam malefcores indictari unde magna pars fuerunt gentes de eadem pria vel ad minus si malefcores fuer de alia pria eoz receptores fuer de villa ubi humoi malefca fiebant Et hoc faciebant p eo qd sacra eisdem Jur non ministrabantur nec in pria ubi felonie ille fiebant Et quoad restitucon dampnoz pena ante tunc non fuit pvis p concelamento & negligencia suis idem nup Rex ad debilitand' posse felon stabilivit penam in illo Casu ita qd deinceps p timore pene plusqm pavore sacri nullis extunc parcent nec aliquas felonias concelarent Et mandavit qd Proclamatio solempnit foret in oib; Com Hundred' Mercatis Ferijs & oib; alijs locis ubi solempnis assemblacio gentium foret sic qd nulli p ignorantiam se possent excusare qd quelibt pria extunc sic possent excusare qd quelibt pria extunc sic possit custodiri qd imediate post Roborias & Felonias fcas recens insecuto fieret de Villa in Villam de pria in priam Ac etiam Inquisitones fierent si necesse foret in villis p ipum qui supior esset de Villa Et postea Hundris & Franches & in Com & aliquando in duob; trib; vel quatuor Com in casu quando felonie fce fuer in Marchijs Com Ita qd malefcores potuissent esse attinct Et si pria de corporib; humoi malefcoz non responderet pena talis esset qd quelibt pria scilt hones in pria comorantes responderet de Roborijs fcis & de dampnis sic qd totum Hundred ubi Roboria illa fca foret cum Franches que essent infra precinct' ejusdem Hundred responderet de Roborijs fcis Et si Roboria fca foret in divis duoz Hund'roz respondetent in amb Hundres simulcum Franches infra eadem & longiorem term non heret pria post Roboriam & Feloniam

Vet. Intr. 218. Dy. 370. Pl. 59. Co. Intr. 350. Co. 2 Inst. 569. 2 Leon. 12. Rast. Intr. 406. Co. Entr. 351. Herne 215. Thes. 141. Br. 225, 232. 2 Saund. 376. Br. form. bene Plac. 99. Robinson 328, 329, 331. Co. 2. Inst. 569.

Act on the Statute of *Winchester* against the Hundred of *W*

Stat. recited.

niam fcas quo quadragine dies infra quos facet emendas de Roboriis & malefcis vel responderet de corporib; malefcorum put in Statuto p̄d' pleni' continetur Ac cum quidam malefcores p̄fat Johi ignot in alta via Regia in parochia de Shapp infra Hundrm de le Westward p̄d' in Com p̄d' ppe quendam locum ibm vocat Wastlebridge als Wasdalebridge vi & armis in ipm Johem insult fecer ac sexcentas & quadraginta libras & novem solid' in pecuniis numatis de denariis ipsius Johis ibm invent felonice de eodem Johe ceper spoliaver & asportaver contra pacem Dni Regis & Dne Regine nunc Idemq; Johannes

Hue and Cry.

ĩmediate post Roboriam Feloniam & Spoliaconem p̄d' fact' apud Villam de Shapp in Com p̄d' (que quidem Villa est ppe locum ubi Roboria illa fact' fuit) hutes & clam de Roboria p̄d' fecit & adtunc & ibm

Notice to the next Inhabitants.

noticiam inhabitantib; ejusdem Ville de Shapp de Roboria illa dedit Et post Roboriam illam fcam & infra viginti dies px' ante diem impetracon Bris Originalis p̄d Johis Idem Johes coram Daniele Fleming Milite tunc Justic dictor Dni Regis & Dne Regine nunc ad

Oath before a Justice of Peace.

Pacem in Com p̄d conservand assign inhitan apud Rydall in Com p̄d ppe p̄dcm Hundrm de le Westward p̄d exaiat fuit sup Sacram suu corporale juxta formam Statuti apud Westm in Com Midd año Regni Dne Elizabethe nup Regine Angl vicesimo septimo inde edit & pvis Idemq; Johes sup Sacram suu p̄d tunc dixit q̄d ipse non cognovit partes que Roboriam illam factam & ante impetraconem p̄d fecissent nec earum aliquam Et hoc post Roboriam illam

The Country took none of the Felons, nor made amends.

Bris Originalis quadraginta dies p̄terier ijdem tamen hõies inhitantes in Hundredo de le Westward p̄d emendas de Roboria p̄dca eidm Johi hucusq; non fecer nec corpora Felonu & Malefcor p̄dictor nec corpus eor alicujus reper nec de corporib; eor seu de corpore eor alicujus hucusq; respondet sed Malefcores & Felones illos evadere pmiser in contempt dictor Dni Regis & Dne Regine nunc & ipsius Johis grave dampnu & contra formam Statut p̄d in p̄dco Parliam dci nup Regis Edwardi primi edit & pvis Et unde idem Johes qui tam &c. p Georgiu Wilson Attorn suu queritur quod cu quidam Ma-

Narratio.

lefcores videlt tres hoies p̄fat Joh'i ignot vicesimo quarto die Januarij anno regni Dni Regis & Dne Regine nunc secdo vi & armis videlt Gladiis Baculis & Cultellis in ipm Johem in alta via Regia in pochia de Shapp infra Hundrm de le Westward p̄d in Com Westml p̄d ppe quendam locum ibm vocat Walebridge als Wasdalebridge insult fecer ac sexcentas & quadragine libras & novem solidos in pecuniis numatis de denar ipsius Joh'is ibem invent felonice de eodem Joh'e ceper spoliaver' & aspotaver' contra pacem &c. Idemq; Joh'es ĩmediate post Roboriam Feloniam & Spoliaconem p̄d fcas scil p̄dco vicesimo quarto die Januarij anno regni dictor Dni Regis & Dne Regine nunc secdo sup̄dicto apud Villam de Shapp p̄d in Com p̄d (que quidm Villa de Shapp est ppe locum ubi Roboria illa fca fuit) h'utes & clam de Roboria p̄d fecit & adtunc & ibm noticiam inh'itantib; ejusdem Ville de Shapp de Roboria illa dedit Et post Roboriam illam fcam & infra viginti dies px' ante diem impetraconis Bris Originalis ipsius Joh'is scilt quarto die Aprilis anno regni dictor Dni Regis & Dne Regine nunc tertio p̄d Joh'es coram p̄fat Daniel' Fleming Mil' tunc uu Justic dictor Dni Regis & Dne Regine nunc ad pacem in Com p̄d conservand assign inh'itan apud Rydall in Com p̄d ppe p̄dcm Hundrm de le Westward exadat fuit sup Sacram suu corporale juxta formam Statuti apud Westm in Com Midd anno regni dce Dne Elizabethe nup Regine Anglie vicesimo septimo sup̄dicto inde edit & pvis Idemq; Joh'es sup Sacram suu tunc dixit q̄d ipse non cognovit partes que Roboriam illam fecissent nec ear aliquam Et post Roboriam illam fcam & ante impetraconem Bris Originalis p̄d quadraginta dies p̄terier ijdem tamen hoves inhabitantes in Hundredo de le Westward

p̄d

pd emendas de Roboria pd eidm Joh'i hucusq non fecet nec corpora felon & malefcorum pdictorum nec corpus eorum alicujus ceper nec de corporib3 eorum seu de corpore eorum alicujus hucusq responder sed Malefcores & Felones illos evadere pmiser in dictorum Dnd Regis & Dne Regine nunc contempt Et ipsius Joh'is grave dampnu & contra formam Statuti pd in pdicto Parliamenti dcd nup Regis Edri primi edit & pvis Unde dic pd deteriorat est & dampnum habet ad valenc septingene librarum Et inde pduc sectam &c.

Et pd' hoies inhabitantes in Hundredo de le Westward pd' p Lancelotu Simpson Attorn suu ven & defend' vim & injur quando &c. Et quicquid &c. Et dic qd' ipsi in nullo sunt culpabiles de pmissis supius eis impoit contra formam Statuti pdict put pd' Joh'es qui tam &c. supius versus eos queritur Et de hoc pon se sup priam Et pd' Joh'es qui tam &c. scilt Et sup hoc idem Joh'es dic quod pdicti hoies inhabitantes in Hundredo de le Westward pd' ubi Roboria fca fuit sunt partes defend' vsus quos idem Joh'es qui tam &c. supius in forma pd' queritur. Et ea de Causa pet Bre Dnd Regis & Dne Regine Vic Com pd' dirigend' de venire faciend' hic duodecim &c. de vicineto Hundredi de le Eastward in Com pd' Quod quidem Hundredum de le Eastward est pxim Hundrm in eodm Com pdicto Hundredo de le Westward pxim adjacen ad triand' exit pd' supius in forma pdicta junct' Et quia pdicti hoies inhabitantes in pdicto Hudredo de Westward hoc non dedicunt ei conceditur Io pcec est Vic quod Venire fac hic a die Sce Trinitati in tres septimanas duodecim &c. de vicineto pd' Hundredi de le Eastward p quos &c. Et qui nec &c. Ad recogn &c. Quiatm &c.

Not guilty pleaded.

Judgment pro Quer'.

Mich. 9 W. III.

Bowler *versus* Spatchurst.

Vide *Levinz* Part . fol.

London' ss. JOhes Spatchurst Gen'osus attach fuit p Bre Dnd Regis de Privilegio & Cur hic emanan ad respondend' Joh'i Bowler Gen un Attorn Cur Dnd Regis de Banco juxta libtat & privileg ejusdem Cur p humod Attorn & aliis Ministris de eodem Banco a tempore quo non extat memoria usitat & appbat in eadem de plito transge sup Casum &c. Et unde idem Joh'es in propria psona sua queritur quare cum pd' Joh'es Spatchurst primo die Maij Anno Dnd 1694. apud London videlt in parochia Be Marie de Arcub3 in warda de Cheape in consideracon qd' idem Joh'es Bowler ad special instantiam & requisiconem pd' Joh'is Spatchurst & p eodem Joh'e in & circa quedam res & negotia ipsius Joh'is divsas denariorum sumas ante tempus illud expendisset & erogasset necnon magnos labores & diligentiam sollicitacon rerum & negotiorum illum sustinuisset & suppeditasset sup se assumpsit & eidem Joh'i Bowler adtunc & ibm fidelit pmisit quod ipse pdictus Joh'es Spatchurst ante tempus illud in & circa res & negotia ill expendisset & erogasset necnon tantas denariorum sumas quane ipse idem Joh'es Bowler p diligentia & labore suis in & circa solicitacon rerum & negotiorum ill ronabilit h'ere meruisset

1 Inst. 128. Dy. 227. 2 Cro. 589. Hub. 148. 8 Cr. 303.

Case by Attorney for Fees and Solliciting, to pay all such Sums as he had expended.

ruisset eodem Johi Bowler cum inde requisit fuisset bene & fidelit sol-ve & contentare vellet Et idem Johes Bowler in fc̄o dic qd ipse p̄d Johes Bowler tempore p̄missionis & assumptionis ill septuaginta so-lidos leḡlis monete Angl in & circa Sollicitac̄on rerum & negoc̄iorum ill p eodem Johe Spatchurst expendisset & erogasset & duodecim libras filis leḡlis monete Angl p labore & diligentia suis p̄d de p̄d Joh'e Spatchurst ronabilit habere meruit unde p̄d Joh'es Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. sup̄dicto apud London p̄d in Parochia & Warda p̄d notitiam habuit cumq; etiam p̄d Joh'es Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. sup̄-dicto apud London p̄d in Parochia & Warda p̄d indebitat fuisset eidm Joh'i Bowler in alijs septuaginta solidos filis leḡlis monete Angl p consili denariorum suma p eundem Joh'em Bowler ad spal instantiam & requisicon p̄d Joh'is Spatchurst & p eodem Joh'e Spatchurst ante tempus illud expendit & erogat Et sic inde indebitat existen p̄dictus Johes Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. sup̄dicto apud London p̄d in Paroch' & Warda p̄d in consideracone inde sup se assumpsit & eidem Joh'i Bowler adtunc & ibm fidelit p̄misit qd ipse p̄d Joh'es Spatchurst p̄d ult menconat septuaginta solidos eidem Joh'i Bowler cum inde postea requisit fuisset bene & fidelit solve & con-tentare vellet Cumq; etiam p̄d Joh'is Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. sup̄dicto apud London p̄d in Pa-rochia & Warda p̄d in consideracone qd idem Joh'es Bowler ad special instantiam & requisicon p̄d Joh'es Spatchurst magnos laborem & di-ligentiam ipsius Joh'is Bowler in & circa quedam al res & negotia p̄d Joh'is Spatchurst sustinuisset & impendisset p̄d Joh'es Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. sup̄dicto apud London p̄d in Parochia & Warda p̄d sup se assumpsit & eidem Joh'i Bowler adtunc & ibm fidelit p̄misit quod ipse p̄d Joh'es Spatchurst decem pecias Auri vocat Guineas quamlibt peciam inde valoris viginti & unius solidorum & sex denariorum filis leḡlis monete Angl eidem Joh'i Bowler p labore & diligentia suis p̄d cum inde postea requisit fuisset bene & fidelit solve & contentare vellet Cumq; etiam p̄d Joh'es Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. sup̄-dicto apud London p̄d in Parochia & Warda p̄d indebitat fuisset eidem Joh'i Bowler in decem libris filis leḡlis monete Angl tam p denar p ipsum Joh'e Bowler ut Sollicitatorem p̄d Joh'is Spatchurst ante tempus illud expendit & erogat qm p labore & diligenc ipsius Joh'is Bowler in & circa sollicitaconem divsor al rerum & negoc̄iorum in lege p̄d Joh'is Spatchurst & ad spial' instanc & requisicon ipsius Joh'is Spatchurst ante tempus illud impens erogat & sustent Et sic inde in-debitat existen p̄d Joh'es Spatchurst postea scit eisdem die & anno apud London p̄d in Parochia & Warda p̄d in consideracone inde sup se as-sumpsit & eidem Joh'i Bowler adtunc & ibm fidelit p̄misit quod ipse p̄d Joh'es Spatchurst p̄d decem libras eidem Joh'i Bowler cum inde postea requisit fuisset bene & fidelit solve & contentare vellet p̄d tamen Joh'es Spatchurst separal p̄mission & assumpcon suas p̄d sic ut p̄fertur fcas mid curans sed machinans & fraudulent intendens eundem Johē Bowler in hac parte callide & subdole decipe p defraudare p̄d sepal denar sumas seu aliquem denar inde eidem Joh'i Bowler licet p̄dict Joh'es Spatchurst ad hoc faciend p p̄dict Joh'em Bowler postea scilt secundo die Maij Anno Dni 1694. sup̄dicto apud London p̄d in Paro-chia & Warda p̄d requisit fuisset non solvit sed ill ei hucusque solve seu aliqualit content om̄io recusavit & adhuc recsat unde dic quod detet est & dampnum habet ad valentiem sexaginta librarum Et inde p̄duc sectam &c. Pleg de p̄s Johannes Doe Ricardus Roe.

Plaintiff avers he spent 3 *l.* 10 *s.* about solliciting, and deserv'd to have 12 *l.* more for his labour, *&c.*

2

Indebit. fuit.

3

On promise to pay 10 Guineas *pro labore.*

4

Indebt. assump. pro 10 l.

Et

Et pd Joh'es Spatchurst p Joh'em Powell Attorn suum ven & pet judicium de Bri pd Quia dic quod ante diem impetraconis Bris attachiament pd' scilt Termo Pasche Anno Regni Dni Regis nunc octavo pdict Johannes Bowler implitasset ipsum Johannem Spatchurst in Cur Dni Regis nunc de Banco hic scilt apud Westm sup aliud Bre Dni Regis de privileg ad respondend' pd' Johanni Bowler in quodam plito transgr sup Casum narrando versus ipm Johannem Spatchurst sup pdicto alio Bri quod pdictus Johannes Spatchurst primo die Maij Anno Dni 1694. apud parochiam Sci Clementis Dacorum in consid quod idem Johannes Bowler ad spal instantiam & requisicon pd' Johannis Spatchurst & pro eodem Johanne in & circa quedam res & negot ipsius Johannis diversas denariorum summas ante tempus illud expendisset erogasset necnon magnos laborem & diligent sollicitacone rerum & negociorum illorum sustinuisset & suppeditasset sup se assumpsit & eidem Johanni Bowler adtunc & ibm fidelit promisit quod ipse pd' Johannes Spatchurst omes tal denariorum summas qual ipse idem Johannes pro pd' Johanne Spatchurst ante tempus illud in & circa res & negot ill expendisset & erogasset necnon tant denariorum summas quant ipse idem Johannes Bowler pro diligentia & labore suis in & circa sollicitaconem rerum & negociorum ill rationabilit habere meruisset eid Johi Bowler cum inde postea requisit fuisset bene & fidelit solve & contentare vellet Et idem Johannes Bowler in facto dixit quod ipse pd' Johannes Bowler tempore promission & assumpcon ill septuaginta solidos leglis monete Angl in & circa sollicitacon rerum & negociorum ill pro eodem Johe Spatchurst expend & erogasset & duos libras sterlis leglis monete Angl pro labore & diligentia suis pd' de spal Johe Spatchurst ronabit here meruisset quodque pd Johes Spatchurst postea scilt eod primo die Maij Ano Dni 1694. supd apud pd' paroch Sci Clementis Dacorum inde notitiam huisset Quodque pd' Johes Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. supdicto apud pd' parochiam Sci Clementis Dacorum indebitat fuisset eidem Johanni Bowler in al septuaginta solidis sterlis leglis monete Angl pro consimili denariorum summa p eundem Johannem Bowler ad spal instantiam & requisicon pd' Johannis Spatchurst & pro eodem Johanne ante tempus illud expendit & erogat Quodque sic inde indebitat existen pd' Johannes Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. supd apud pd' parochiam Sci Clementis Dacorum in consideracone inde sup se assumpsit & eidem Johanni Bowler adtunc & ibm fidelit promisit quod ipse pd' Johannes Spatchurst pd' ult mencionat septuaginta solidos eidem Johanni Bowler cum inde postea requisit fuisset bene & fidelit solvere & contentare vellet. Et quod pd' Johannes Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. supdicto apud pd parochiam Sci Clementis Dacorum in consideracone quod idem Johannes Bowler ad spial instantiam & requisicon pd' Johannis Spatchurst magnos laborem & diligentiam ipsius Johannis Bowler in & circa quedam al res & negotia pd' Johannis Spatchurst sustinuisset & impendisset pd' Johannes Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. supdicto apud pdcm parochiam Sci Clementis Dacorum sup se assumpsit & eidem Johi Bowler adtunc & ibm fidelit pmisit qd ipse pd Johes Spatchurst decem pecias Auri vocat Guineas, quamlibt peciam inde valoris viginti & unius solidorum & sex denariorum sterlis leglis monete Angl eidem Johi Bowler p labore & diligentia suis pd cum inde postea requisit fuisset bene & fidelit solve & contentare vellet Quodque pd Johes Spatchurst postea scilt eodem primo die Maij Anno Dni 1694. supdicto apud parochiam Sci Clementis Dacorum pd indebitat fuisset eidm Johi Bowler in decem libris sterlis leglis monete Angl tam p denar p ipsum Johem Bowler ut Sollicitatorem pd Johis Spatchurst ante

D tempus

Defendant pleads in Abatement an Action depending in the *Kings-Bench* for the same Money, and sets forth the Declaration at large there.

tempus illud expendit & erogat qm̄ p labore & diligentia ipsius Johis Bowler in & circa sollicitationem diversorum aliorum rerum & negotiorum in lege pd Johis Spatchurst & ad spial instanciam & requisicon ipsius Johis Spatchurst ante tempus illud impens erogat & sustent Et quod sic inde indebitat existen pd Johes Spatchurst postea scilt eisdem die & anno pd apud paroch Scī Clementis Dacorum in consideracone inde sup se assumpsit & eidem Johi Bowler adtunc & ibm fidelit pmisit qd ipse pd Johes Spatchurst pd decem libras eidem Johi Bowler cum inde postea requisitus fuisset bene & fidelit solvere & contentare vellet Qdq pd Johes Spatchurst separ pmissiones & assumpcones suas pd sic ut pfertur fcas mim curans set machinans & fraudulent intendens eundem Johem Bowler in ea parte callide & subdole decipe & defraudare pd separales denariorum summas seu aliquem inde denar eidem Johi Bowler licet pd Johes Spatchurst ad id faciend p pd Johem Bowler postea scilt secdo die Maij Anno Dnī 1694. supdicto apud poch' Scī Clementis Dacorum pd requisitus fuisset non solvit set ill ei usq tunc solv seu aliqualit p eisdem contentare omnio recusasset & adtunc recusabat unde idem Johes Bowler tunc dixit qd deteriorat fuit & dampnum habuit ad valenc quadraginta librarum Et inde tunc pet remedium &c. Quod quidē plitum adhuc pendet in Cur hic mim discontinuat neq discuss seu determinat put p Record inde in Cur hic remanen plenius liquet & apparet Et idem Johes Spatchurst ulterius dic qd pd separ cause actionis in pd recitat Record mencionat & pd separales cause actionis unde pd Johes Bowler supius versus eundem Johem Spatchurst narravit sunt eedem cause actionis & non alie neq diverse Et hoc parat est verificare unde pet judicium de isto posteriori Bri impetrat sup quo pd Johes Bowler modo narrat penden priori Bri pd in Cur hic mim discontinuat neq discuss seu determinat Et qd idem Bre cassetur &c.

Et pd Johes Bowler dic qd Bre suum pd p aliqua pallegata cassari non debet Quia dic qd non habetur aliquod tale recordum pliti pd in Cur pd hic remanen qual pd Johes Spatchurst supius allegavit Et hoc parat est verificare unde pet judicium & dampna sua pd occasione pd sibi adjudicari &c.

Nul tiel record.

Et pd Johes Spatchurst dic qd ipse idem Johes plitavit plitum suum pd modo & forma supdictis in Cro Pur Be Marie Termino Scī Hillarij Anno Regni Dnī Regis nunc octavo Quodq dicto tempore plitacionis pliti sui pd scilt in pd Crastino Pur Be Marie habebatur tale Recordum in Cur hic adtunc penden quale idem Johannes supius plitando allegavit Et hoc parat est verificare unde ut prius pet judicium de isto posteriori Bri impetrat sup quo pd Joh'es Bowler modo narrat penden priori Bri pd' in Cur hic mim discontinuat neq discuss seu determinat Et qd Bre illud cassetur &c.

Demurrer.

Et pd' Johes Bowler dic qd plitum pd' pd' Johis Spatchurst modo & forma pd' plitat materiaq in eodem content minus sufficien in lege existunt ad pd' Bre ipsius Johes Bowler cassand' ad qd idem Johes Bowler necesse non het nec p legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficien respons in hac parte idem Johes Bowler pet judicium & dampna sua pd' occasione pd' sibi adjudicari &c.

Joynder.

Et pd' Johes Spatchurst ex quo ipse sufficien materiam in lege in plito suo pd' ad pdcm Bre pfat Johis Bowler cassand' supius allegavit quam ipse parat est verificare quam quidem materiam idem Johes Bowler non dedic nec ad eam aliqualit respond' set verificaconem illam admitt omnio recusat ut prius pet judicium Et qd Bre illud cassetur &c. Et quia Justic hic se advisare volunt de & sup pmissis priusqm Judicium inde reddant dies dat est partib pd' hic usq diem Lune in Octab Scī Hillarij de audiendo inde judicio suo Eo qd ijdem Justic hic inde nondum &c.

Mich.

Mich. 9 W. III.

Causton *versus* Manvillam.

London' ss. PEtrus Manvillam nup de London Mercator attach' fuit ad respondend' Petro Causton jun de plito transgr sup Casum &c. Et unde idem Petrus Causton p Walterm Adamson suum queritur qd cum pdicc Petrus Manvillam p quoddam scriptum agreamenti fact undecimo die Novembris Anno Regni Dni Regis nunc octavo apud London in parochia Be Marie de Arcub in warda de Cheape p pd' Petrum Manvillam eidem Petro Causton quod idem Petrus Causton sigillo pd' Petri Manvillam sigillat hic in Cur' pfert cujus dat est eisdem die & anno pd' Petrus Manvillam in consideratone viginti librar in manib pdict Petri Manvillam p nomen Petri Manvillon de London Mercator solut ad vel ante sigillaconem & delibaconem pdicc scripti agreamenti p pfat Petrum Causton p nomen Petri Causton jun de London Mercator recepcon cujus pdict Petrus Manvillon p idem scriptum cognovisset pdict Petrus Manvillam p se Heredib Executorib & Administratorib suis convenit pmisit & concessit ad & cum dco Petro Causton Executorib Administratorib & Assign suis p idem scriptum quod ipse dictus Petrus Manvillam Executores Administratores & Assign sui transferent sive causaret vel causarent transferri dicto Petro Causton Executor Administrator vel Assign suis quingentas libras Creditus (Angl Five hundred Pounds Credit) in capitli Fundo (Angl Stock) Gubnator & Societat Banci Angl unde octogine p Cent tunc fuisset solut provis quod dictus Petrus Causton Executor Administrator vel Assign sui requireret vel requirerent eadem p verbum aut scriptum fore relict apud domu coie vocat Jonathan's Coffee-house in Ambulacro Excambij (Angl Exchange-Alley) London sup aut ante undecimum diem Maij px' sequen dat ejusdem scripti & bene & facie solvet seu solvent vel solvi causaret seu causarent dicto Petro Manvillam Executor Administrator vel Assign suis p dictis quingent libris creditus ad tempus transfulacon (Angl transferring) ejusdem sumam trescentar sexaginta & quinq librar legalis monete Angl cum omib al summis que forent solut (Angl paid in) sup compotum dcd Fundi (Angl Stock) Et p idem scriptum agreatum fuit qd si pd Petrus Causton Executores Administratores aut Assign sui requireret vel requirerent & solveret vel solverent pd quingentas libras creditum sic ut pfertur tunc oia dividentie (Angl Dividends) & pficua que surgerent forent suffragat (Angl voted) ordinat (Angl ordered) vel fact' p & in respectu dict quingent librar credit post dat ejusdem scripti forent & remanerent ad solum usum beneficium & pficuu (Angl behoof) dicti Petri Causton Executor Administrator vel Assign suor sed si dictus Petrus Causton Executores Administratores vel Assign sui non requireret vel requirerent dictas quingentas libras credit & solvet vel solvent p eisdem sic ut pfertur sup vel ante undecimum die Maij px' sequen dat ejusdem scripti tunc obligato pd foret vacua & nullius vigoris & dicte viginti libre remanerent dicto Petro Manvillam imppm put p idem scriptum plenius apparet Cumq etiam ad Parliamentum Dni Regis nunc inchoat & tent apud Westm in Com Midd vicesimo secundo die Novembris Anno Regni dci Dni Regis

Case on Agreement.

Declares on a Writing made by the Defendant to the Plaintiff 11 No. 8 *W.* 3. That the Defendant in consideration of 20 *l.* paid him, agreed to transfer to the Plaintiff 500 *l.* Credit in the Bank of *England*;

Provided the Plaintiff require it at such a place on or before the 14th of *May* next, and pay the Defendant 368 *l.*

And it was agreed that if the Plt. should require it, and should pay the 500 *l.* Credit, then all Dividends and Profits for or in respect of the said 500 *l.* Credit should be to the sole use of the Plt.

But if the Plt. shall not require and pay the 365 *l.* on or before *May* 5 then the Obligat. to be void and the Def. to have the 20 *l.*

Then shews the Stat. 20 *Oct.* 96. to restrain the ill practices of Stock-Jobbers, which enacts, That all Contracts & Agreements to be perform'd after 1 *May* 87. whereon any *Premium* was paid, or should be paid for liberty to refuse or accept any share in any Stock, Bank-bills, *&c.* except such as should be to be performed within three days after the making should be void, and the *Premium* repaid.

That the said *Premium* of 20 *l.* was not repaid, and for this he brings his Action.

Then the Plaintiff lays it by *Indeb. assumpsit.*

And by *insimul computasset.*

gis nunc septimo & ibm continuat p sepales pzogacones & adjournament usq vicesimum diem Octobzis Anno Dni 1696. p quendam Actu ejusdem Parliamenti intitulat An Act to restrain the Number and ill Practice of Brokers and Stock Jobbers Authoritate ejusdem Parliamenti p ulteriozi pventione calamitat & inconvenienciaꝝ que indies surgebant Comercio (Angl to Trade) p malas pzacticas Negociatoꝝ (Angl Brokers) Transactoꝝ (Angl Stock-Jobbers) & al int al inactitat & declarat fuit qd quelibt politia contractus bargania sive agreament fact & intrat (Angl entred into) sive fieri aut intrari p aliquam sive aliquando psonam & psonas quamcunq & quascunq & qd p tenozem inde fozet pfozmat post primu diem Maij Anno Dni 1687. sup qud vel quibus aliquod prem tunc fuit aut ad aliquod tempus tunc postea fozet dat vel solut p libtate impone (Angl to put upon) vel delibare recipe acceptare sive recusare aliquam partem sive aliquod interesse in aliquibus juncto fundo (Angl Joynt-stock) Taleis (Angl Talleys) ozdinib Billis Scaccarij Tickets Scaccarij sive Billis Banci quibuscunq al qm & excep tal politijs contract barganijs sive agreament nature pd qual fozent pfozmat infra spacium trium dieꝝ computari a tempoze confecon inde fuit & fozet penitus null & vacua ad omn intencon & posit sicut eadem nunquam fact fuisset Et qd quodlibet & quelibet tal pmin & pmia fozet & fozent retro solut & restitut tal vel talib persone vel psonis qual dedit sive deder vel solvit sive solvent eadem Executozib Administratozib sive Assign suis put p eundem actum int al plenius apparet. Et idem Petrus Causton in facto dic qd pd suma viginti librarum in pd scripto agreamenti hic in Cur plat mencionat fuit pmium p ipm Petrum Causton pfat Petro Manvillam ad pd tempus confecon ejusdem agreamenti solut p pd libtat in eodem scripto agreamenti mencionat videlt apud London pd in Parochia & Warda pd quodq eadem suma viginti librarum seu aliquis inde denar nunquam fuit retro solut vel restitut eidem Petro Causton & supinde pd Petrus Manvillam in consider pmissozum postea scilt duodecimo die Maij Anno Regni dci Dni Regis nunc nono apud London pd in Parochia & Warda pd sup se assumpsit & eidem Petro Causton adtunc & ibm fidelit pmisit pd ipse idem Petrus Manvillam pd viginti libzas eidem Petro Causton retro solve & restituere vellet Cumq etiam pd Petrus Manvillam postea scilt eodem duodecimo die Maij anno nono supdicto apud London pd in Parochia & Warda pd indebitat fuisset pfat Petro Causton in al viginti libzis legalis monete Angl p tanc denar suma p ipsum pd Petrum Manvillam p usu ipsius pd Petri Causton ante tempus illud hit & recept Et sic inde indebitat existen pd Petrus Manvillam in consideracone inde postea scilt eodem duodecimo die Maij anno nono supdicto apud London pd in Parochia & Warda pd sup se assumpsit & eidem Petro Causton adtunc & ibm fidelit pmisit quod ipse idem Petrus Manvillam pd viginti libzas ult mencionat eidem Petro Causton cum inde postea requisit fuisset bene & fidelit solvere & contentare vellet Cumq etiam postea scilt eodem duodecimo die Maij Anno nono supdicto apud London pd in Parochia & Warda pd pd Petrus Causton & Petrus Manvillam insimul int se computassent de & concnen diversas denar sumas p ipsum Petrum Manvillam eidem Petro Causton ante tunc debit & insolut Et sup compo illo idem Petrus Manvillam invent fuisset in arrearagijs erga eundem Petrum Causton in al viginti libzis sitis legalis monete Angl Et sic inde in arrearagijs invent existen pd Petrus Manvillam in consideracone inde postea scilt eodem duodecimo die Maij anno nono supdicto apud London pd in Parochia & Warda pd sup se assumpsit & eidem Petro Causton adtunc & ibm fidelit pmisit quod ipse idem Petrus Manvillam pd viginti libzas ult mencionat eidem Petro Causton cum inde postea requisit fuisset bene

&

& fidelit solve & continuare vellet p̃d tamen Petrus Manvillam separ pmission & assumpcion suas p̃d minime curans set machinans & fraudulent intendens eundem Petrum Causton in hac parte callide & subdole decipe & defraud p̃d separal denar summas seu aliquem inde denar eidem Petro Causton non solvit seu aliqualit contentavit licet ad hoc faciend idem Petrus Manvillam postea scilt decimo tertio die Maij Anno Regni dn̄i Dn̄i Regis nunc nono supradicto & sepius postea apud London p̃d in Parochia & Warda p̃d p eundem Petrum Causton requisit fuit set ill ei hucusq solvere seu aliqualit contentare omio recusavit & adhuc recusat ac p̃d separal denar summe adhuc insolute & minime satisfact existunt ad dampnum ipsius Petri Causton sexaginta librar. Et inde pduc sectam &c.

Et p̃d Petrus Manvillam p Johem White Attorn suum ven & defend vim & injur quando &c. Et quoad primam pmission & assumpcon in narracone p̃d specificat idem Petrus Manvillam dic quod narraco p̃d inde in forma p̃d fact & declarat ac materia in eadem content minus sufficien in lege existunt ad p̃d Petrum Causton ad accionem suam p̃d inde v̈sus eum hend manutenend Quodq ipse idem Petrus Manvillam ad narraconem p̃d inde modo & forma p̃d fact & declarat necesse non het nec p legem terre tenetur respondere Et hoc parat est verificare unde p defect sufficien narr p̃d Petri Causton in hac parte idem Petrus Manvillam per judicium & q̃d p̃d Petrus Causton ab accone sua p̃d inde v̈sus eum hend pcludatur. Et quoad secund & tertiam pmission ad assumpcon in narracone p̃d specificat idem Petrus Manvillam dic q̃d ipse non assumpsit sup se modo & forma put p̃d Petrus Causton superius inde queritur Et de hoc pon se sup pphysiam Et p̃d Petrus Causton scilt Et p̃d Petrus Causton ex quo ipse sufficien materiam in lege ad accionem suam p̃d manutenend in narracone sua p̃d quoad primam pmission & assumpcon p̃d superius declaravit quam quidem materiam idem Petrus Manvillam non dedic nec ad eam aliqualit respondet set verificationem ill admittere omio recusat pet inde judicium & dampna sua occone pmissa in ea parte sibi adjudicari &c. Et quia Justic hic se advisare volunt de & sup pmissis inde priusquam judicium inde reddant dies inde dat est partibz p̃d hic usq in Cro Sci Martini de judicio suo inde audiendo Eo quod ijdem Justic hic inde nondum &c. Et quoad exitum p̃d p pphiam triand superius junct pcc est Vic quod Venire Fac hic ad eundem Terminum duodecim &c. p quos &c. Et qui nec &c. ad recogn &c. Quia tam &c.

Defendant demurs as to the first;

And to the two other pleads *Non assumpsit*.

Joinder as to the Demurrer.

Issue as to the two other.

Whether this be within the Act? and Whether both Parties were bound by the Agreement? were the Questions.

Hill. 7 W. III.

Randall *versus* Abbott.

Vide *Levinz* Part III. fol. 66.

Alias put patet Tercio Sci Michis ult pterit Ro 533. continetur sic Suff. ss. Maria Abbot jun mup de Needham-Market in Com p̃d Spinster attach fuit ad respondend Benjamino Randall de plito transgr sup Casum &c. Et unde idem Benjaminus p Ricm Love Attorn suum

suum queritur q̄d cum p̄d Maria primo die Maij Anno Regni Dnī Regis nunc septimo apud Coddenham indebitat̄ fuisset eidem Benjamino in sexaginta solidis legalis monete Angl̄ p diversis mercib; mercimoniis & mercandizis p eundem Benjaminū p̄fat̄ Marie ad specialem instanciam & requisiconem p̄d Marie ante tempus illud vendit̄ & delibat̄

Indeb. assumps. pro 3 *l.* for Wares sold and deliver'd 1 *May.*

Et sic inde indebitat̄ existen̄ p̄d Maria postea scilt eodem primo die Maij anno septimo p̄d apud Coddenham p̄d in consideracone inde sup se assumpsit et eidem Benjamino adtunc & ibm fidelit̄ pmisit quod ipsa p̄dicta Maria p̄dictos sexaginta solidos eidem Benjamino cum inde postea requisit̄ esset bene & fidelit̄ solv̄e & contentare vellet

Mutuat. for 20 *s.* 2 *May.*

Cumq; etiam p̄dca Maria postea scilt secundo die Maij Anno septimo supdicto apud Coddenham p̄d indebitat̄ fuisset eidem Benjaminū in viginti solidis silis monete p denar̄ p eundem Benjaminū p̄fat̄ Marie ad speciales & requisiconem p̄d Marie ante tempus illud mutuo dat̄ & accomodat̄ Et sic inde indebitat̄ existen̄ p̄dicta Maria postea scilt die & anno ult̄ mencionat̄ apud Coddenham p̄d in consideracone inde sup̄ se assumpsit & eidem Benjamī adtunc & ibm fidelit̄ pmisit quod ipsa p̄dicta Maria p̄d viginti solidos eidem Benjamī cum inde postea requisit̄ esset bene & fidelit̄ solv̄e & contentare vellet

For 12 *s.* for Money had and received 3 *May.*

Cumq; etiam p̄d Maria postea scilt tertio die Maij Anno septimo supdicto apud Coddenham p̄d indebitat̄ fuisset eidem Benjamī in duodecim solidis consimilis monete p denar̄ p p̄fat̄ Mariam de eodem Benjamī ante tempus illud hit & recept̄ Et sic inde indebitat̄ existen̄ p̄d' Maria postea scilt die & anno ult̄ mencionat̄ apud Coddenham p̄d in consideracone inde sup se assumpsit & eidem Benjamī adtunc & ibm fidelit̄ pmisit quod ipsa p̄dicta Maria p̄d duodecim solidos eidem Benjamī cum inde postea requisit̄ esset bene & fidelit̄ solv̄e & contentare vellet p̄dicta tamen Maria separal̄ pmissiones suas p̄dictas in forma p̄dicta factas minime curans sed machinans & fraudulent̄ intendens eundem Benjamī in hac parte callide & subdole decipe & defraudare p̄d

In toto attingen.

separales denarior̄ sūmas in toto se attingen̄ ad nonag̃ & duos solidos seu aliquem inde denar̄ eidem Benjamī non solvit seu aliqualit̄ p eisdem contentavit (licet ad hoc faciend p̄dicta Maria postea scilt quarto die Maij Anno supdicto apud Coddenham p̄d p eundem Benjamī requisit̄ fuisset) sed ill̄ ei solvere seu contentare hucusq; omino recusavit & adhuc recusat Ad dampnum ipsius Benjamī centum solidor̄. Et inde pduc̄ sectam &c.

Plea. *Quoad* 56 *s.* 11 *d.* parcel of the 3 *l.* in the first promise, and *quoad* 8 *d.* parcel of the 20 *s.* in the second promise.

And as to the last promise, *Non assumpsit.*

Quoad 3 *s.* 1 *d.* residue of the 3 *l.* in the first promise; and as to the 12 *s.* residue of the 20 *s.* *Actio non*; because that before the Purchase of the Writ *viz.* 15 *Novemb.* she offered to pay 3 *s.* 1 *d.* and the 12 *s.* and he refused; And is still ready.

Et p̄dicta Maria p Carolum Cutting Attorn̄ suū ven̄ & defend vim & injur̄ quando &c. Et quoad quinquaginta sex solidos & undecim denar̄ parcell p̄dictor̄ sexaginta solidor̄ in prima pmissione & assumpcone in narracone p̄dicta supius specificat̄ ac quoad octo solidos parcell p̄dictor̄ viginti solidor̄ in secunda pmissione & assumpcone in narracone p̄dict supius specificat̄ Et quoad ultimam pmissionem & assumpconem ipsius Marie in narracone p̄dicta supius suppōit eadem Maria dic̄ quod ipsa non assumpsit sup se modo & forma put p̄d Benjaminus supius versus eam inde queritur Et de hoc pon̄ se sup priam̄ Et p̄dict̄ Benjaminus inde silit̄ Et quoad tres solidos & un̄ denar̄ resid' p̄dictorum sexaginta solidor̄ in prima pmissione & assumpcone in narracone p̄dicta specificat̄ ac quoad duodecim solidos resid' p̄dictor̄ viginti solidor̄ in secunda pmissione & assumpcone in narracone p̄dicta supius specificat̄ eadem Maria dic̄ quod p̄d' Benjamī accionem suam p̄dictam inde versus eam here non debet Quia dic̄ quod antequā p̄dictus Benjaminus Bre suū sup quo ipse modo & forma p̄d' narrat̄ versus ipsam Mariam psecut̄ fuisset scilt decimo quinto die Novembris anno septimo supdicto apud Coddenham p̄d' ipa eadem Maria obtulit ad solvend' eidem Benjamino p̄d' tres solidos & un̄ denar̄ & p̄dictos duodecim solidos quos quidem tres solidos & un̄ denar̄ & duodecim solidos idem Benjaminus recipere adtunc & ibm penitus recusavit Et p̄dicta Maria

ria dic q̄d ipsa semp post p̄d decimum quintum diem Novembris anno septimo sup̄dicto hucusq; parat fuit & adhuc parat existit ad solvend eidem Benjam p̄d tres solidos unum denar & p̄dict duodecim solidos Et ill modo hic in Cur p̄fert parat ad solvend p̄dicto Benjamino Et hoc parat est verificare unde pet judicium si p̄dictus Benjaminus accõnem suam p̄dict inde versus eam habere debeat &c.

Et p̄dict Benjaminus pet licenciam inde inloquendi hic usq; in Octabis Sci Hillarij Et het &c. Idem dies dat est p̄fat Marie hic &c. Ad quem diem hic ven tm̄ p̄dicta Maria qm p̄dictus Benjaminus p Attorn suos p̄dictos Et sup hoc eadem Maria pet q̄d p̄dictus Benjam ad plitum suum p̄dict respondeat &c. sup quo idem Benjam quoad p̄d plitum p̄dicte Marie quoad p̄dictos tres solidos & unum denar resid p̄dict sexaginta solidorum & p̄dict duodecim solidos resid p̄dict viginti solidorum supius in barram plitat dic q̄d ipse p aliqua in eodem plito p̄allegata ab accõne sua p̄dicta inde hend p̄cludi non debet Quia dic q̄d ipse p̄d Bre suum Originale sup quo ipse modo & forma sup̄dictis narrat versus p̄dcam Mariam secdo die Octobris ano Regni Dni Regis nunc septimo sup̄dicto e Cur Cancellarie dci Dni Regis apud Westm in Com Midd p̄secut fuit Et idem Benjam ulterius dic q̄d p̄dicta Maria ante p̄secutionem ejusdem Bris Originalis non obtulit ad solvend eidem Benjamino p̄dictos tres solidos & unum denar & p̄dict' duodecim solidos modo & forma put p̄dicta Marja supius plitando allegavit Et hoc pet q̄d inquirat p priam

Impar lance.

Replic. That he brought his Original 20 *die Octob.* and before that the Defendant did not offer, *&c.*

Et p̄dicta Maria dic quod p̄dictum plitum p̄dicti Benjamini quoad p̄dictos tres solidos & unum denar resid p̄dictorum sexaginta solidorum & p̄d duodecim solidos resid p̄dictorum viginti solidorum supius replicando plitat minus sufficiens in lege existit ad p̄dcum Benjamin accõnem suam p̄d inde versus ipsam Mariam habend manutenend quodq; ipsa ad plitum illud modo & forma p̄dictis plitat necesse non habet nec p legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficien pliti p̄dicti Benjamin in hac parte eadem Maria pet judicium & q̄d p̄dictus Benjamin ab accõne sua p̄dicta quoad p̄dictos tres solidos & unum denar & duodecim solidos hend p̄cludatur &c.

Deft' demurs.

Et p̄dictus Benjamin dic q̄d placit p̄dict p ipsum Benjamin quoad p̄dict tres solidos & unum denar resid p̄dictorum sexaginta solidorum & p̄dcos duodecim solidos resid p̄dictorum viginti solidorum supius replicando plitat materiaq; in eodem content bon & sufficien in lege existunt ad accõnem ipsius Benjamin p̄dcam versus ipsam Mariam habend manutenend Quod quidem plitum materiamq; in eodem content idem Benjamin parat est verificare Et quia p̄dicta Maria ad plitum illud non respond' nec illud hucusq; aliqualit dedic sed verificationem illam admittere omnio recusat idem Benjamin ut prius pet judicium & dampna sua occasione p̄dicta sibi adjudicari &c. Et quia Justic hic se advisare volunt de & sup p̄missis priusquam judicium inde reddant dies dat est partibus p̄dictis hicusq; a die Pasche in quindecim dies de audiendo inde judicio suo Eo quod ijdem Justic hic inde nondum &c.

Joynder.

Trin.

Trin. 8 W. III. Rot. 309.

Morefoote & Ux' *versus* Belchamber.

Trover by Baron & Feme Executors.

London' ss. JOhes Belchamber nup de Cripplegate in Com̄ p̄dict' Tobacconist attach fuit ad respondend' Willo Morefoote & Eliz' Uxori ejus Executoribus testi Joanne Reeve Vidue de plito transgr' sup Casum &c. Et unde ijdem Willus & Eliz' p Thomam Weddell Attorn̄ suu̅ queruntur quare cum p̄dicta Joaña in vita sua scilt primo die Decembris Año Regni Dn̄i Regis nunc septimo apud London̄ videlt in Parochia B̄e Marie de Arcubz in Warda de Cheape possessionat' fuisset de quibzdam Bonis & Catallis videlt de uno Cantharo Argent' (Angl' a Silver Tankard) ad valenciam sex librar' ac de uno Candelabro Argent' (Angl' a Silver Candlestick) ad valenciam quinq3 librar' ut de Bonis & Catallis suis ppriis Et sic inde possessionat' existen̄ eadem Joaña postea scilt sc̄do die Decembris año septimo supp̄dicto apud London̄ p̄dict' in Parochia & Warda p̄dict' fecit Testm̄ & ult' Voluntatem sua in scriptis & ipsos Willm̄ & Eliz' Executores ejusdem Testi constituit & ordinavit & postea ibm obijt de eisdem Catallis sic possessionat' post cujus mortem scilt sc̄do die Februarij año septimo supradicto apud London̄ p̄dict' in Parochia & Warda p̄dict' eadem Bona & Catalla ad manus & possessionem p̄d' Johis p inventionem deven̄ p̄dictus tamen Johes sciens Bona & Catalla illa fuisse Bona & Catalla ipsius Joañe ppr' tempore mortis sue Et ad ipsos Willm̄ & Eliz' post mortem p̄dict' Joañe ut Executores Testi ipsius Joañe de jure spectare & ptinere machinans tamen & fraudulent' intendens ipsos Willm̄ & Eliz' de Bonis & Catallis illis callide & subdole decipe & defraudare Bona & Catalla p̄dicta eisdem Willo & Eliz' post mortem p̄dict' Joañe licet sepius requisit' non delibabit sed Bona & Catalla illa postea scilt tertio die Februarij año septimo supp̄dicto apud London̄ p̄dict' in Parochia & Warda p̄dictis in usum & commodum ipsius Johis ppr' convertit & disposuit ad dampnum ipsorum Willi & Eliz triginta librarum ac in retardac̄onem execuc̄onis Testi p̄dict' Et inde pduc' sectam &c Et p̄fert hic in Cur' Literas Testamentar' p̄dict' Joañe p quas satis liquet Cur' hic ipsos Willm̄ & Eliz' fore Executores Testi p̄dicti Et inde here administrac̄onem &c.

Demurr' to the Declaration, & for cause shews that the cause of Action is supposed to accrue to the Plt. upon the possession of the Testatrix, where they ought to have declared on their own possession ;

Et p̄dictus Johes p Samuelem Robinson Attorn̄ suu̅ ven̄ & defend' vim & injur' quando &c Et dic' quod Narrac̄o p̄dicta materiaq3 in eadem content' minus sufficien̄ in lege existunt ad ipsos Willm & Eliz' acc̄onem suam p̄dict' versus ipsum Johem hend' manutenend' ad quam quidem Narrac̄onem idem Johes non het nec p legem terre tenetur aliquo modo respondere Et hoc parat' est verificare unde p defectu sufficien̄ Narrac̄onis p̄d' idem Johes pet' Judicm̄ Et quod p̄dict' Willus & Eliz' ab actione sua p̄dicta hend' p̄cludantur &c. Et p causa morac̄onis in lege idem Johes ostend' quod Narrac̄o p̄dict' suppon̄ causam acc̄onis accrevisse p̄dict' Willo & Eliz' sup possessionem Testatricis ubi constat p eandem Narr' quod ijdem Willus & Eliz' generalit' narrasse debuer' sup possessionem eorundem Willi & Eliz' ppr' absq3 aliqua mentione de p̄fat' Testatrice faciend' Sicq3 narrac̄o ill' multifar' & redundans existit & attingit solummodo ad generał acc̄on̄ de Conversiones bonorum ipsorum Willi & Eliz' in noi̅bus & sup possessionem eorundem Willi & Eliz' fundat' Quodq3 Narrac̄o illa continet in se barbarism̄ & fals' latinitat' & insensibil' exist'.

And for Barbarism and faux Latin.

Et

Joynder in Demurr'.

Et p̄dicti Willus & Eliz' ex quo ipsi sufficien̄ materiam in lege in Narracone sua p̄dict ad accōnem suam p̄dict versus p̄fat Johem hend' manutenend' supius allegavet quam ipsi parat sunt v̄ificare quam quidem materiam p̄d Johes non dedic nec ad eos aliqualit respond sed v̄ificationem illam admitte om̄io recusat pet Judiciū & dampna sua p̄d occasione p̄missor sibi adjudicari &c. Et quia Justic hic se advisare volunt de & sup p̄missis priusquam Judiciū inde reddant dies dat est partib; p̄dictis hucusq; a die Scī Michis in tres septimanas de audiendo inde Judicio suo Eo q̄d ijdem Justic hic inde nondum &c. Ad quem diem hic ven̄ tam p̄dict Willus & Eliz' quam p̄dict Johes p Attorn̄ suos p̄dictos. Et quia Justic hic ulterius se advisare volunt de & sup p̄missis priusquam Judiciū inde reddant dies ulterius dat est partibus p̄dictis hucusq; in Octabis Scī Hillarij de audiendo inde Judicio suo Eo quod ijdem Justic hic inde nondum &c. Ad quem diem hic ven̄ tam p̄dictus Willus & Eliz' quam p̄dict Johes p Attorn̄ suos p̄dict Et quia Justic hic ulterius se advisare volunt de & super premissis priusquam Judicium inde reddant dies ulterius dat est partibus predictis hicusq; a die Pasche in quindecim dies de audiendo inde Judicio suo Eo q̄d ijdem Justic hic inde nondum &c.

Covenant.

Hill. 33 & 34 Car. II. Rot. 611.

Cole versus Shallett.

Vide *Levinz* Part III. fol. 41.

Action of Covenant on a Charter-party of Afraightment.

London' ss. Arthurus Shallett nup de London Mercator als dict Arthur Shallett of London Merchant sum fuit ad respondend Sabian Cole de plito qd teneat ei convenconem int eos factam secdm vim formam & effectum cujusdam Carte-partite indentat de affectamento inde int eos confect &c. Et unde idem Sabian p Ricum Hassler Attorn suu dic qd cum p quandm Cartam-partitm indentat de affrectamento (Angl a Charter-party of Freightment) indentat factam vicesimo sexto die Augusti Ano Dni Millmo sexcentesimo octogesimo apud London in paroch Bte Marie de Arcub in Warda de Cheape int eundm Sabian p noen Sabian Cole de London Mercatoris parte pprietarius bone Navis sive Navicule (Angl Vessel) voc The Owners Adventure of London onus quadraginta & quatuor dolior vel eo circit unde Johes Powell tunc fuit Magr tunc ad Anchoram in Rivo Thamesis London ex una parte Et pfat Arthurum p noen Arthuri Shallett de London Mercatoris ex altera parte cujus sigillo ipsius Arthuri signat idem Arthurus hic in Cur pfert cujus dat est eisdem die & ano testat sit quod pdict parte pprietarius concessisset & dimisisset ad naulum (Angl to freight) pdictam Navem sive Naviculam pd Arthuro Shallett Et qd pd Arthur Shallett conduxisset (Angl hired) eandm p Viagio cum ill fiend put in Carta-partita pd mencionat fuit & sup inde pd parte pprietarius p seipso Executorib & Administratorib suis convenit concessit & agreavit ad & cum dicto Arthuro Shallett Exec & Assign suis p Cartam-partitam pd modo & forma sequen (viz.) Quod dicta Navis sive Navicula remanet in Portu de London p spaciu septem dier a die dat Carte-partite pd computand si pd Navis non antea expedic foret (Angl if she be not sooner dispatched) & ibm capet & recipet tal bona & merchandizas qual dictus Arthurus Shallet sive Assign sui sustinerent congrue onare (Angl to put on board) ipsa & ad expiraconem dicti temporis directe ut Ventus & Aura (Angl Wind and Weather) pmittent (Angl serve) decederet & navigaret in le Downes & ab inde cum prima Anglicana Conducta (Angl Convoy) que iret p Mari Meditarraneo velificaret (Angl shall set Sail) ac put Ventus & Aura (Angl Wind and Weather) pmitterent (Angl serve) pcederet & navigaret

The Partowners covenant,

That the Ship should remain in *London* Port till the Defendant loaded her.

And then sail to the *Mediterranean*.

garet ad Portum de Barcelona tam pre adinde qm ipse tuto arrivaret (Angl arrive) ibm tam facere rectam delibationem & exonationem dicto Arthuro Shallett factoribus sive Assign suis onis (Angl the Loading) quod recept foret in eandm apud London ut pfertur acetiam recipere & cape onus ejus in Vino sive tal al Bonis & Merchandizis qual ipse vel ill apte putarent onare in eam (Angl to load aboard her) mis exceden illud quod ronabilit in eadem poneretur (Angl stowed in her) & ibm existen expedit (Angl dispatched) abinde directe ut Ventus & Aura (Angl Wind and Weather) pmitterent (Angl serve) navigaret & rediret ad dict Portum Civitatis London tam pre adinde qm ipa tuto arrivaret & ibm facet rectam delibaconem & exonationem dicto Arthuro Shallett Executor vel Assign suis de tal exonacone (Angl Loading) qual capetur in eadem apud Barcelonam pdict & ibm ad finiend ejus tunc psens intens Viagium Negoconem (Angl Imployment) (Casualitatib (Angl the Casualties) & Periclis Marin & Restrictionib Principum & Regnantin (Angl Rulers) semp excepe) Et quod dicta Navis remanet & dispenderet (Angl spend) p exonacone & reonacone apud Barcelona pdca ac p exonacone apud London post reditum sun tales numos dierum qual dictus Arthurus Shallett factores sive Assign sui congruos putarent non exceden in toto quadraginta dies sup computatione insimul (Angl reckoning together) dies morationis inde ad ambo eorundm locorum computan eosdem ex arrivacone sua ad Anchoram ad aleutr Portum respective usq ad tempus ejus exonacon p eundm Arthurum Shallett sive Assign suos ad aleutrum tal respectivum Portum ac supinde dict Arthurus Shallett pro seipso Exec & Adm suis convenit concessit & agreavit ad & cum dicto Sabian Cole Exec & Adm suis p Cartam-partitam pdict modo sequen (videlt) Quod ipse pdict Arthurus Shallet Executor Factor sive Assign sui non solum exonarent & reonarent sive causarent reonari pdict Navem sive Naviculam apud Barcelonam pdict cum Vinis vel al Bonis & Merchandiz ac delibarent & exonarent eadem ex illa apud London pdict infra dictos quadraginta dies in toto insimul computand ut pfertur p moracone ejus ad ambo loca sive ad extremu (Angl at the furthest) infra dies Dymoragii (Angl Dymorage) postea in Carta-partita pd mentonat set etiam bene & fidelit solvent sive solvi causarent dicto Sabian Cole Exec Edm sive Assign suis Naulum p Conducone (Angl the hire) dicte Navis p dicto Viagio sumam Centum septuaginta & sex librar leglis monete Anglie infra decem dies post dco Navis redditu & exonaconem apud dcm Portum de London ab ejus dco Viagio & Negocone (Angl Imployment) simulcu Primagio & Avagio consuet (Proviso) ac covent & agreatum fuit p & int dictas partes p Cartam-partitam pd qd licitum foret p dicto Arthuro Shallett factor sive Assign suis detinre & custodire dcam Navem sive Naviculam ad Dymoragiu apud Barcelona Acetia apud London post ejus reddit sive alterum eor locor ita qd tal Dymoragium non excederet in toto spaciu viginti dier ultra & sup pmentonat quadraginta dies vel tot dcor viginti dier put occasio requiret p quolibt sepali die cujus Dymoragii pd Arthurus Shallett sive Assign sui solverent dicto Sabian Cole Executoribus sive Assignat suis sumam viginti solidorum leglis monet Angl ultra & sup dcu Naulum & simulcum eodm aliquo ut pfertur in contrarium non obstan ac p eandem Cartam-partitam convent & agreat fuit p & int dictas partes ad Cartam-partitam pdcm qd oia Portun ona & Naucleritas (Angl Pilotage) que devenirent debit solubiles p pd Nave & al Navicula duran Viagio solut & exonata foret put sequitur (videlt) una tertia pars inde p dcm Sabian Cole sive Assign suos & altere due tertie partes inde p dcm Arthurum Shallett sive Assign suos Et dcus Sabian Cole p seipso Exec & Adm

And so to *Barcelona*.

And there take in Lading of Wine, &c.

And then return to *London*

And that the Ship should make her Voyage in 40 days.

The Defendant covenants.

To pay 176 *l.* for the hire, to be paid within 10 days after the return of the soid Ship, with Primage and Average.

Agreed that the Defendant should keep the Ship at *Barcelona* and *London* after the return, so that the Dymorage exceed not 20 days, the Deft to pay 20 *s. per diem.*]

That one third part of the Pilotage be paid by the Plt. and two third parts by the Deft.

Plt' warrants the Ship to be substantial, and well Victualled, Tackled, &c.

suis convenit & concessit Acetiam p Cartam-partitam pdca warrantizavit qd dca Navis sive Navicula ad tempus ejus decessionis (Angl departure) a dicto Portu de London extra (Angl outwards) sup dcm Viagium foret strenua & substantialis ac bene & sufficien vibita (Angl Victualled) Armat (Angl Tackled) Apparat (Angl Apparelled) ac Suppeditata (Angl Furnished) cum Scapha (Angl Boat) remis Malis velis antennis Anchoris Rudentibus finibus pvisionibus Armamentis (Angl Tackle) Apparat (Angl Apparel) & Furnitura (Angl Furniture) quibzcunq necessar p tli Nave & tli Viagio simulcum quinq hoib3 & puer pc dict Magr & Puer vel tot cor dm quot requisit forent parat essent ad omia tempora convenien cum Scapha dce Navis sive Navicule servire dco Arthuro Shallett factorib3 sive Assign suis ad & a terra duran dco Viagio & Negocione (Angl Imployment) ac ad performaconem dictar Convencon solucon & agreament in Carta-partita pd contenc p dcm Sabian Cole Exec & Assign suos esse solut & performat in oib3 ut sup idem Sabian obligavit seipm Exec & Adm & dcam Navem Armamenta (Angl Tackle) Naulum & Furnituram (Angl Furniture) ejusdem dicto Arthuro Shallet Exec & Assign suis in suma

Plt. binds himself in 350 *l.* for the performance.

sive penalitat trescentarum & quinquaginta librar legalis monet Angl bene & fidelit esse solut p Cartam-partitam pd ac silit ad performacon convencon solucon & agreamentorum in Carta-partita pd contenc p dictum Arthurum Shallett Exec Adm sive Assign suos esse solut & performat ut sup ipse idem Arthur obligavit seipm Exec & Adm suos & bona que forent onat (Angl laden on board) dcam Navem dco Sabian Cole Exec & Assign suis in consili suma 350 l. he esse solut p Cartam-

And the Deft. the like.

partitam pd put p eandem Cartam-partitam plenius apparet Et idem Sabian ulterius dic qd licet ipse bene & fidelit performavit & pimplevit oies & singulas convencones concessiones & agreamenta in Carta-partita pd contenc ex pte ipsius Sabian performand & pimplend ptestando etiam qd pd Arthurus non performavit seu pimplevit aliquas convencones concessiones seu agreamenta in Carta-partita pd contenc ex pte ipsius Arthuri performand & pimplend in facto idem Sabian dic qd post confeccone Carte-partite pd & post expiracon pd spacij & temporis septem dierum post dat ejusdem Carte-partite Nave pd non citius expedit existen scilt decimo octavo die Septembr Anno Dni 1680. supdicto Navis pd substancial ac bene & sufficienc suppeditat existen cum dictis Bonis & Merchandiz' pd Arthuri in eadem p eundm Arthurm onat a Portu de London scilt in Parochia & Warda pd directe put Ventus & Aura pmiser decessit & navigabit in le Downes & abinde cu prima Anglicana conducta que ivit p Mediterranea eadem Navis velificavit ac ut Ventus & Aura pmiser pcessit & navigabit erga Portum de Barcelona in Carta-partita pd mencionat videlt in ptib3 transmarinis apud London pd in Parochia & Warda pd qdq Navis pd cu Bonis & Merchandiz' pd onat postea scilt vicesimo septimo die Januarij tunc primo sequen ad pdict Portum de Barcelona arrivabit & ibm fecit rectam exonerationem Bonorum & Merchandizorum pdictorum juxta Cartatam-partitam pdicc scilicet apud London pdict in Parochia & Warda pdicc quodq Navis pdict ibm occasione pdicti Arthuri & ad ejus Ordinem post arrivationem pdictam ibm Dymoragium fecit ultra pdicc quadragine dies & viginti dies in Carta-partita pdicc mencionat scilt usq decimum septimum diem Aprilis tunc

Breach assigned, 1. That Dymorage exceeded 40 days and 20 days.

proximo sequenc quodq pdict Arthurus Navem pdicc ante eundem decimum septimum diem Aprilis 1681. cum Vinis Bonis & Merchandizis non reonerabit vel reonerari causabit put ille infra pdicc numerum dierum in Carta-partita pdicc in ea parte limitat reonerasse debuit secundum formam & effectum Carte-partite pdicc quodq

Navis

Navis p̄dict' eisdem die & anno ult' mencõnat' a p̄dicto Portu de Barcelona p̄dict' cum diversis Bonis & Merchandizis ipsius Arthuri p Ordinem ejusdem Arthuri in eadem onerat' existen navigavit & redivit erga p̄dictum Portum de London & ibm cum p̄dictis Bonis & Merchandizis p̄dict' Arthuri ut p̄fertur onerat' ad finem tresdecim mensium & trium septimanarum proximo post inceptionem Viagij p̄dict' & non antea scilt nono die Novembris Anno Dnd 1681. arrivavit & Viagium p̄dict' finivit ac ibm rectam exonerationem Bonorum & Merchandizorum p̄dict' postea scilt eisdem die & anno ult' mencõnat' juxta Cartam-partitam p̄dict' fecit Et idem Sabian ulterius dic' quod p̄dict' Arthurus licet sepius requisit' non solvit eidem Sabian p̄dict' 176 l. p Naulo juxta Cartam-partitam p̄dict' sic ut p̄fertur solubil' seu aliquem denar' inde quos ei solvisse debuit secundum formam & effectum Carte-partite p̄dict' Et idem Sabian ulterius dic' quod denar' p Dymorag' Navis p̄dict' p p̄dict' viginti diebus ultra p̄dictos quadraginta dies fact' secundum Cartam-partita p̄d' in se attingunt ad viginti libras quodq; p̄dict' Arthurus licet sepius requisit' easdem viginti libras seu aliquem denar' inde p Dymorag' in ea parte ut p̄fertur solubil' eidem Sabian non solvit secundum formam & effectum Carte-partite p̄dict' Et sic idem Sabian dic' quod p̄dict' Arthurus licet sepius requisit' conventõnes suas p̄dictas cum eodem Sabian in hac parte fact' eidem Sabian non tenuit set infregit ac ill' ei tenere hucusq; contradixit & adhuc contradic' unde dic' quod deteriorat' est & dampnum het ad valenc' quingentarum librarum Et inde p̄duc' sectam &c.

2. That the Deft' paid not the 176 *l.*

Et p̄dict' Arthurus p Johannem Mould Attorn suum ven & defend vim & injur' quando &c Et dic' quod p̄dict' Sabian Cole accõnem suam p̄dcam inde versus eum habere non debet quia quoad Assignacõnem Conventõnis fracte in Dymorag' Navis p̄dict' apud Barcelona ultra p̄dict' quadragint' dies & viginti dies in Carta partita p̄dict' mentõnat' dic' quod hoc Dymorag' occacõnat' fuit p defaultum p̄dict' Johannis Newell & ejus Servorum qui durante tempore Dymoragij p̄dict' infrap̄dict' quadraginta dies & viginti dies in Carta-partita p̄dict' mentõnat' mid parati fuer' in Cymba Navis p̄dict' ad serviend p̄dict' Arthur' Shallett vel aliquem Factorem ipsius Arthuri ad & a terra ibm ita quod p̄dict' Arthurus Navem p̄dict' infra separ' dies ult' mentõnat' reonerare non potuit Et hoc idem Arthurus parat' est verificare Et quoad Assignationem Conventionis fracte in non solucõn Nauli p̄dict' idem Arthurus dic' quod ipse postea scilt decimo septimo die Aprilis Anno Dnd 1681. apud Barcelonam p̄dict' videlt apud London p̄dict' in Parochia & Warda p̄dict' Navem p̄dict' reonerari pcuravit cum Vinis ad valenc' mille librarum & aliis Merchandizis ipsius Arthuri quodq; Navis p̄dict' sic expedic' existen eisdem die & anno ult' mentionat' decessit a Barcelona p̄dict' sed non directe ut Ventus & Aura pmittebant navigavit erga Portum London sed postea scilt eisdem die & anno ult' sup̄dict' deviavit ab intenso Viagio & tunc arrivavit apud Alicant in partibus transmarinis & postea ad Cadiz & postea navigabat ad Tangier in partibus transmarinis videlt apud London p̄dict' in Parochia & Warda p̄dict' & Navis p̄dict' non arrivavit ad Portum London usq; decimu diem Octobris tunc proximo sequen racõne cujus deviacõnis Navis p̄dict' & plongacõn Viagij p̄dict' Vina in eadem Nave sic ut p̄fertur onerat' totalic' acida & spoliata devener' & hoc parat' est verificare unde idem Arthurus petit Judicium si p̄dict' Sabian accõn suam p̄dict' versus eum here debeat &c.

Replic.

As to the Dymorage, that was occasioned by the default of the Master, Servants, &c.

And as to the nonpayment of the hire, that he laded the Ship with Wine &c. that she deviated to *Alicant*, *Cadiz*, *Tangier*, by reason whereof the Wines were spoiled.

Et

Demurr' al Repl'

Et pdict Sabian dic quod plitum pdict Arthuri supius plitat materiaq; in eodem content minus sufficien in lege existunt ad ipsum Sabian ab Accon sua pdict versus pfat Arthurum hend pcludend quodq; ipse ad plitum illud modo & forma pdict plitat necesse non habet nec per legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficien pliti in hac parte idem Sabian pet Judicium & dampna sua occasione Convencon fract pdict sibi adjudicari, &c.

Joynder in Demurr'.

Et pdict Arthurus ex quo ipse sufficien materiam in lege in barram dce Actions pdict Sabian supius plitat & materiam in eodem plito content idem Arthurus parat est verificare quam quidem materiam idem Sabian non dedit nec ad eam aliqualit respons set verificacon ill admittere omio recusat unde pet Judicium Et quod pdict Sabian ab Actione sua pdca versus ipsum Arthurum hend pcludatur &c. Et quia Justic hic se advisare volunt &c.

Judgment pro Quer'. Vide le Report.

Debt.

Debt.

Mich. 2 W. & M. B. R. Rot. 329.

Watrough & al. *versus* Holgate.

Vide *Levinz* Part III. fol. 293.

Ebor' ss. WIllus Holgate nuper de Sawley in Com' pdict' Yeoman alias dictus Willus Holgate de Sawley in Com' Ebor' Yeoman summ' fuit ad respondend' Roberto Watrough, Radulpho Dunburg, & Willo Swire de placito quod reddat eis quadraginta libras quas eis debet & injuste detinet &c. Et unde idem Robertus Radulphus & Willus Swire p Robertum Sclater Attorn' suum dic' quod cum pdict' Willus Holgate secundo die Augusti Anno Regni Dni nup Regis Jacobi Secundi Angliæ &c. quarto apud Gisburne p quoddam scriptum suum Obligatorium concessisset se teneri prefac' Roberto Radulpho & Willo Swire in pdict' 40 l. solvend' eisdem Roberto Radulpho & Willo Swire nondum reddidit set ill' eis hucusque reddere contradixit & adhuc contradic' unde dic' quod deteriorat' sunt & dampnum habent ad valentiam 20 l. Et inde pduc' sectam, &c. Et proferunt hic in Cur' scriptum pdict' quod debitum pdict' in forma pd' testatur cujus dat' est die & anno supradictis &c. — Debt on bond.

Et pdictus Willus Holgate p Johem Mitchell Attorn' suum ven' & defend' vim & injur' quando &c. Et pet' auditu' scripti pdict' Et ei legitur in hæc verba ss. The Condition of this Obligation is such, That if the above-bounden *William Holgate*, his Heirs, Executors and Administrators, for his and their parts and behalfs, shall and do in all things well and truly stand to, obey, abide, perform, fulfil and keep the Award, Order, Arbitrament, final End and Determination of *Ambrose Pudsey* of *Bolton* Esq; and *Thomas Parker* of *Browsholme* Esq; Arbitrators indifferently elected and named, as well on the part and behalf of the above-bounden *William Holgate*, as of the above named *Robert*, *Ralph*, and *William Swire*, to arbitrate, award, order, judge and determine of and concerning all and all manner of Action and Actions, Cause and Causes of Actions, Suits, Bills, Bonds, Specialties, Judgments, Executions, Extents, Quarrels, Trespasses, Damages and Demands whatsoever, at any time heretofore had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed or depending by or between the said Parties, so as the said Award be made and put in writing and ready to be delivered to the Parties in difference, or such of them as shall desire the same, on or before the 11th day of *November* next, then this Obligation to be void, or else to stand in force. — Oyer of the Condition to stand to Arbitration.

Quib;

Quib3 lcis & auditis idem Wills Holgate dic quod p̄dicti Robertus Radulphus & Willus Swire Actionem suam p̄dict inde versus eum here non debent quia dic quod p̄dicti Ambrosius Pudsey & Thomas Parker Arbitratores p̄dict post confectionem scripti p̄dict ad vel ante p̄dict undecimum diem Novembris in conditione scripti p̄dict mencionat nullum fecer arbitrium inter partes in condicione p̄dict supius specificat Et hoc parat est verificare unde pet Judicium p̄dict Robertus Radulphus & Wills Swire Actionem suam p̄dcam inde v̄sus eum here debeant &c.

Deft' pleads *Nul Award.*

Et p̄dict Robertus Radulphus & Wills Swire dic quod ipsi p aliqua p p̄fat Willielmum Holgate supius plitando allegat ab Actione sua p̄dict versus eum hend p̄cludi non debent Quia dic quod p̄dict Ambrosius Pudsay & Thomas Parker Arbitratores in conditione p̄dict supius nominat accepe sup se onere arbitrandi in partes p̄dict de & sup p̄missis in conditione p̄dict supius mentionat post confectionem scripti p̄dict & ante p̄dict undecimum diem Novembris in condicione p̄dict supius specificat scilt decimo die Novembris anno Regni Dnd Jacobi secundi nup Regis Anglie quarto apud Osborne p̄dict fecer quoddam arbitrium suum in scriptis sub manibus & sigillis suis de & sup p̄missis p̄dict adtunc & ibm partibus p̄dict parat fore deliberand p quod quidem Arbitrium ijdem Arbitratores arbitraver & ordinaver de & sup p̄missis in condicione p̄dict supius specificat modo & forma sequen videlt quod p̄dictus Wills Holgate bene & veracit solveret seu solvi causaret eisdem Roberto Watmough Radulpho Duxbury & Willo Swire vel eorum alicui summam quindecim librarum legalis monete Anglie ad vel ante primū diem Decembris tunc px' sequen que Arbitratores p̄d judicaver p̄dict Robm Radm & Willm Swire sustinuisse in custagijs & dampnis rone cujusdam secte sive cause p̄dcm Willm Holgate versus ipsos Robm Radm & Willm Swire prosecut Et ulterius ijdem Arbitratores p̄dicti ordinaver quod oies secte & differenc inter dcm Willm Holgate ex una parte & ipsos dictos Robm Radm & Willm Swire ex altera parte que tunc hic sive dependen fuer ante diem dat scripti Obligatorij p̄dict absolute cessarent vacue forent & determinarent put p idem Arbitrium inde alia plenius liquet & apparet Et p̄dicti Robertus Radulphus & Willielmus Swire p̄testando quod p̄dictus Willielmus Holgate non observavit performavit & pimplevit seu custodivit aliquod in Arbitrio p̄dicto supius specificat ex parte ipsius Willielmi Holgate observand performand pimplend seu custodiend In facto ijdem Robertus Radulphus & Willielmus Swire dicunt quod p̄dictus Willielmus Holgate non solvit p̄dictis Roberto Radulpho & Willielmo Swire vel eorum alicui summam quindecim librarum sup p̄dictum primum diem Decembris tunc px' sequen dat arbitrij p̄dcti quas eis vel eorum alicui sup eundem diem solvisse debuit secundum formam & effectum Arbitrij p̄dicti Et hoc parat sunt v̄ificare unde pet Judicm & debm suum p̄d unacum dampnis suis occone detencionis debi illius sibi adjudicari &c.

Plt' replic' That the Arbitrators made an Award in Writing, and sets it forth,

Breach. Avers that he did not pay the Money awarded upon the 1 day of *December*; but saith not *aut ante.*

Et p̄dictus Willielmus Holgate dic quod plitum p̄dictorum Roberti Radulphi & Willielmi Swire modo & forma supius replicando plitat minus sufficien in lege existit ad p̄dictas Robm Radm & Willm Swire ad accionem suam p̄d v̄sus ipsum Willielmum Holgate hend manutenend q̄dq3 ipse ad replicacionem illam modo & forma p̄d plitat necesse non het nec p legem terre tenetur respondere Et hoc parat est v̄ificare unde p defcu sufficien replicacionis in hac pte Idem Willus Holgate pet Judicm & q̄d p̄d Robtus Radus & Willus Swire ab Actione sua p̄d v̄sus eum hend p̄cludatur &c.

Defendant demurs general.

Et

Et pdicti Robertus Radulphus & Willus Swire ex quo ipsi sufficien materiam in lege existunt ad accionem suam pdictam versus pfat Willielmum Holgate hend manutenend supius replicando allegaver quam ipsi parat sunt verificare quam quidem materiam pdict Willielmus Holgate non dedic nec ad eam aliqualit respond sed verificationem illam admittere omnio recusabit ijdem Robertus Radulphus & Willielmus Swire ut prius pet Judicm & debm suu pd unacum dampnis suis occasione detencois debi illius eis adjudicari &c. Et quia Justic hic se advisare volunt de & sup pmissis priusqm Judicm inde reddant dies dat est partibus pdict hucusq; a die Sci Michis in unum mensem de audiendo inde Judicio suo Eo quod ijdem Justic hic inde nondum &c. — Joynder in Demurr'.

Trin. 8 W. III. Rot. 343.

Markes *versus* Marriot.

Suffex' ss. Simon Marriot sen nup de Chiddingford in Com pdict Generosus als dictus Simonem Marriot seniorem de Chidingfold in Com Surr Gen sum fuit ad respond Willo Marks de plito quod reddat ei ducentas libras quas ei debet & injuste detinet &c. Et unde idem Willus p Georgiu Tanner Attorn suu dic quod cum pdictus Simon secundo die Julij Anno Regni Dni Regis nunc septimo apud Haslemere in Com pdict p quoddam scriptum suu Obligatorium concessisset se teneri pfat Willo in pdict ducentis libris solvend eidem Willo cum inde requisit fuisset pdict tamen Simon licet sepius requisit pdict' ducentas libras eidem Willo nondum reddidit sed ill ei hucusq; reddere contradixit & adhuc contradic unde dic quod deteriorat est & dampnum het ad valenciam decem librarum Et inde pduc sectam &c. Et pfert hic in Cur scriptum pdict' quod debm pdcm in forma pdca testatur cujus dat est die & anno supdictis &c. — 5 Rep. Hungate's Case. 2 Saunders, Roberts and Marriott. Lit. Sect. 315, 207. Debt on Bond.

Et pdcus Simon p Willm Rycroft Attorn suu ven & defend vim & injur quando &c. Et pet audit scripti Obligatorij pdci Et ei legitur &c. pet eciam auditum conditionis ejusdem scripti Et ei legitur in hec verba: The Condition of this Obligation is such, That if the above-bound *Simon Marriot*, his Heirs, Executors and Administrators, for his and their parts and behalfs, do and shall in all things well and truly stand to, obey, abide, perform, fulfil and keep the Award, Order, Arbitrament, final End and Determination of *Roger Shotter* of *Pittfold* in the Parish of *Frinsham* in the County of *Surry* Gent. and *Edward Holt* of *Chiddingfold* in the County aforesaid Gent. Arbitrators indifferently elected and named, as well on the part and behalf of the above-bound *Simon Marriot*, as of the above named *William Markes*, to arbitrate, award, order, judge and determine of and concerning all and all manner of Action and Actions, Cause and Causes of Actions, Suits, Accounts, Bills, Bonds, Specialties, Judgments, Executions, Extents, Quarrels, Controversies, Trespasses, Damages and Demands whatsoever, at any time heretofore had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed, or depending — Condition to perform an Award.

pending by or between the said Parties, or either of them, so as the said Award be made in Writing or otherwise, and ready to be delivered or given up to the said Parties, or either of them as shall desire the same, on or before the 14th day of *August* next ensuing the date of these Presents, that then this Obligation shall be void and of none effect, or else shall be and remain in full force and vertue. Quibus lctis & auditis idem Simon dic quod pdictus Willus Actionem suam pdict' versus eum habere non debet Quia dic qd pd Arbitratores post confectonem scripti pd & ad vel ante pd quartum decimum diem Augusti in condicone pd supius specificat nullum fec Arbitrium ordinem adjudicationem finem seu determinationem inter partes pd de & sup pmissis in Conditione pd mentionat secundum formam & effectum Conditionis illius Et hoc parat est verificare unde pet Judicm si pd Willus Actionem suam pd inde vsus eum here debeat &c.

Nul award pleaded.

Et pdcus Willus Markes dic quod ipse p aliqua pallegata ab Actione sua pd hend pcludi non debet Quia dic quod pd Arbitratores in Conditione pd supius noiat post confectonem scripti Obligatorij pd & ante pdcm quartum decimum diem Augusti in Conditione illa mencionat scilt tertio decimo die Augusti Anno Regni dcd Dnd Regis nunc septimo supdicto accept sup se onde arbitrij ordinacon & judicij pdcor de & sup pmissis in dicta Conditione supius specificat apud Hasslemere pd in pd Com Surr fecer quoddam arbitrim suu de & sup eisdem premissis Et pinde ordinaver & arbitrat fuer int ipsum Willm Markes & pfat Simonem Marriot de & sup eisdem pmissis in forma sequen videlt quod ipse idem Willus Markes Executores Administratores vel Assign sui solverent vel solvi causarent pd Simoni Marriot Executorib; Administratorib; vel Assign suis ad vel in adtunc mantonali domo Johis Wakeford portan signu Aquile (Angl bearing the Sign of Eagle) in Hasslemere pd plenam summam triginta & unius librarum & quindecim solidor legalis monete Angl in vel sup tricesimum diem Septembris tunc px' sequen quam summam pd Arbitratores arbitrati & determinati fuer fore in plena satisfactione omium Actionum sectar debor (Angl Dues) & demand (Angl Demands) a pd Willo Markes pfat Simoni Marriot Et ulterius ijdem Arbitratores pinde ordinaver & arbitrat fuer qd pd Simon Marriot Heredes vel Assign sui delibarent vel sursum reddi causarent (Angl cause to be delivered up) pd Willo Markes Heredibus vel Assign suis sup solutone pecunie pd sup tricesimo die Septembris adtunc px' sequen quietam pacificã possessionem totius alius Messuagij sive Tenti horreor terrarum Tentor & Hereditamentor cum ptin vocat sive cognit p nõen de Clamerhill scituat jacen & existen in Parochia de Chiddingfold in Com pd que quidem pmissa adtunc fuer in possessione pd Simonis Marriot vel Assign suor Et factum talliatum (Angl an entailed Deed of Settlement) geren dat duodecimo die Decembris in Regno (Angl in the Reign) Jacobi primi Regis fact de pmissis de pd Willo Markes p Antecessores ejusdem Willi & oia al facta & scripta (Angl the Deeds and Writings) que ipse pd Simon Marriot huit in manib; custodia seu possessione suis que ptiner pd terris vel ullis al terris sive tentis pd Willi Markes Acetiam oia scripta Obligatoria Assignatones scriptor Obligatorior (Angl Assignments of Bonds) & Judicia que ipse idem Simon Marriot huit sup eundem Willm Markes Ac ijdem Arbitratores ulterius pinde ordinaved & arbitrat fuer qd ipse pfat Simon Marriot sup solutone pecuniar ei ut pfertur & sup requisiton inde fiend sigillaret & ut factum suu delibaret pd Willo Markes vel ad ejus usum generalem relaxatonem (Angl a general Release) omiu Actionum sectar debor & demand (Angl Debts and Demands) ab initio mundi usq; duodecimum

Repl. Award made, and set out the Award.

That the Plt' pay to the Deft' in the house of a stranger 31 l. 15 s. on 30 Sept.

in full of all Demands.

That the Deft' should deliver up to the Plt' upon payment of the said Money possession of an house,

and an entailed Deed of Settlement, and other Writings.

That the Plt' should seal a general Release till such a day, and the Plt' should seal a general Release.

decimum diem adtunc instan̄ Augusti necnon Warrant̄ Attorn̄ (Angl a Warrant of Attorney) ad cognoscend̄ satisfaccionem de Record in Cur̄ Dn̄i Regis apud Westm̄ sup oīb; t̄lib; Judiciis qual ipse p̄d Simon Marriot huit v̄sus p̄fat Willm̄ Markes Acetiam Arbitratores p̄d ulterius ordinaver̄ & arbitrat̄ fuer̄ qd p̄d Willus Markes sup delibacon̄ pacifice possession̄ om̄i & singlo⁊ terra⁊ ten̄to⁊ facto⁊ scripto⁊ & om̄i & singulo⁊ p̄missor⁊ ei ut p̄fertur sigillaret & ut factū suū delibaret p̄fat Simoni vel ad ejus usum consilem gen̄alem relaxaconem om̄i Actionum secta⁊ debo⁊um & demand̄ (Angl dues and demands) ab initio mundi usq; duodecimum diem adtunc instantis Augusti adtunc p̄terit̄ de quo quidem arbitrio p̄d Simon postea scilt p̄d quarto decimo die Augusti in Conditione illa menconat̄ apud Hasslemere p̄d huit notitiam Et idem Willus Markes dic̄ quod ipse idem Willus Markes post confeccionem arbitrij p̄d scilt tricesimo die Septembris anno septio supd̄ ad p̄d domū mansional̄ p̄fat̄ Johis Wakeford in Hasslemore p̄d p spaciū sex hor̄ pr' ante occasum solis ejusdem diei & ad occasum solis ejusdem diei parat̄ fuit & obtulit ad solvend̄ p̄fat̄ Simoni plenā sumā p̄d 31 l. 15 s. legalis monete Angl' quos Arbitratores p̄d eidem Simoni p p̄d Willm̄ Markes sup eodem die solvi ut p̄fertur arbitrat̄ fuer̄ juxta formam & effectum arbitrij p̄d' Quodq; nec p̄d Simon nec aliquis al' ex parte ejusdem Simonis adtunc & ibm̄ parat̄ fuit ad recipiend̄ de eodem Will'o Markes p̄d' 31 l. 15 s. q̄dq; idem Will'us post p̄d' 30 diem Septembris hucusq; parat̄ fuit & adhuc existit ad solvend' p̄fat̄ Simoni p̄d' 31 l. 15 s. Ac ulterius idem Will'us Markes in f̄co dic̄ q̄d p̄d Simon non delibavit vel sursum reddi causavit p̄d Will'o Markes sup eodem 30 die Septembris anno septimo supdicto vel aliquod tempus hucusq; quietam & pacificam possessionem ill' Messuagij sive ten̄ti hor̄eorum terrarum ten̄torum & hereditamento⁊ cum ptin̄ vocat̄ sive cognit̄ p nōen de Clamerhill scituat̄ in p̄d paroch de Chiddingfold secundum formam & effectum arbitrij illius Et hoc parat̄ est v̄ificare unde pet̄ Judiciū & debm̄ suū p̄d' unacum dampnis suis occone detenconis debi illius sibi adjudicari &c. — That the Deft' had notice. — The Plt' at the day and place aforesaid was ready to pay the 31 *l.* 15 *s.* and that no one was there ready to receive it. — Avers that the Deft' did not deliver Possession.

Et p̄d' Simon dic̄ q̄d pl'itū p̄dcm̄ p̄dci Will'i supius replicando pl'itat̄ ac materia in eodem conten̄t minus sufficien̄ in lege existit ad p̄d' Willm̄ ad Accionem suā p̄d' v̄sus ipm̄ hend' manutenend' q̄dq; ipse ad pl'itū illud modo & forma p̄d' pl'itat̄ necesse non h̄et nec p legem terre tenetur respondere Et hoc parat̄ est v̄ificare unde & defc̄u sufficien̄ relaxaconis ipsius Will'i in hac parte idem Simon pet̄ Judiciū Et q̄d p̄d Will'us ab Actione sua p̄d' p̄cludatur &c. — Deft' demurs.

Et p̄d' Will'us Markes ex quo ipse sufficien̄ pl'itū ac materiam in lege ad Actionem suam p̄d v̄sus p̄fat̄ Simonem manutenend̄ supius replicando allegavit quam ipse parat̄ est v̄ificare q̄d quidem pl'itū ac materiam in eodem conten̄t p̄d Simon non dedicit nec ad eam aliqualit̄ respond̄ sed v̄ificaconem ill' admittere oīo recusat ut prius pet̄ Judiciū & debm̄ suū p̄d unacum dampnis suis occone detenconis debi illius sibi adjudicari &c.

Trin. 33 Car. II.

Genn *versus* Tinker.

Vide *Levinz* Part III. fol. 66.

Debt on Bond of Arbitratiod.

Ebor' ss. Christopherus Tinker nup de Holmefrith in Com̄ p̄d Yeom̄ als dictus C. T. de S. utrumq; nrm̄ in paroch de K. & in Com̄ Ebor̄ Yeomen sum̄ fuit ad respondend Thome Genn de p̄lito quod reddat ei quadragint libras quas ei debet & injuste detinet &c. Et unde idem Thomas p Thomam Darby Attorn̄ sum̄ dic̄ quod cum p̄d Xpoferus nono die Novembris Anno Regni Dn̄i Regis nunc tricesimo secundo apud Almondbury p quoddam scriptum sum̄ Obligator̄ concessisset se ten̄ri eidem Thome in p̄d 40 l. solvend eidem Thome cum inde requisit esset p̄d tamen Xpoferus licet sepius requisit p̄d 40 l. eidm̄ Thome nondum reddidit set ill̄ ei hucusq; reddere om̄io contradixit & adhuc contradic̄ unde dic̄ quod deteriorat̄ est & dampnum het ad valenc̄ viginti librarum Et inde p̄duc̄ sectam &c. Et p̄fert hic in Cur̄ script̄ p̄d quod debm̄ p̄d in forma p̄d testatur cujus dat̄ est eisdem die & anno sup̄dictis &c.

Et p̄d Xpoferus Tinker p Henr̄ Wood Attorn̄ suum ven̄ & defend vim & injur̄ quando &t. Et pet̄ audir̄ scripti p̄d & ei legitur &c. pet̄ etiam audic̄ Condicon̄ ejusdem scripti Et ei legitur in hec v̄ba: The Condition of this present Obligation is such, That if the above-bounden *John Tinker*, *Christopher Tinker* and *Lawrence Royston*, their Heirs, Executors and Administrators, for their and every of their parts and behalfs, shall and do in all things well and truly stand to, obey, abide, observe, perform, fulfil and keep the Award, Arbitrament, Judgment, final End and Determination of *Christopher Kaye* of *Hepworth*, and *William Moorehouse* of *Snowgate-head*, and *Henry Wilson* of *Wooldale-Town-end* Yeoman, and *Godfrey Holt* of *Hepworth* Clothier, all of the abovesaid Parish and County, Arbitrators indifferently chosen, elected and named as well on the part and behalf of the above-bounden *J. T. C. T.* and *L. R.* as of the above-named *Thomas Genn*, to arbitrate, award, order, judge and determine of, for, upon and concerning all and all manner of Actions, Cause and Causes of Actions, Suits, Bills, Bonds, Specialties, Judgments, Executions, Extents, Quarrels, Controversies, Trespasses, Damages and Demands whatsoever at any time heretofore had, made, moved, brought, done, suffered, committed or depending between the said Parties, or any of them, so always as the said Award, Arbitrament, Order, Determination, final End and Judgment of the said Arbitrators, of, for and upon the Premisses, be made and given up, either in writing or by word of mouth, according to the discretion of the said Arbitrators, ready to be delivered to the said Parties on or before the 23d day of *November* next ensuing the date above-written, then this Obligation to be void and of none effect in the Law, or else to be and remain in full power, force, effect and vertue. Quibus lc̄is & auditis idem Xpoferus Tinker pet̄ auditum Arbitrij p̄d in Conditione p̄d mencōnat̄ p Arbitratores p̄d fact̄ Et p̄d Thomas dic̄ quod post confeccōn̄ scripti Obligatorij p̄d Et ante p̄d vicesimum tertium diem

The Oyer of the Condition.

Oyer of the Award.

diem Novembris tunc px' sequen scilt vicesimo secundo die Novembris Anno Regni dcd Dni Regis nunc tricesimo secundo supdicto apud Almondbury pd in Com pd pdcd Xpoferus Kay Willielmus Moorhouse Henr Wilson & Godfridus Holt Arbitratores in Conditione pd noiat accepe sup se onere arbitrandi de & sup pmissis in Conditione pd mencionat p verba absq scripto de & sup eisdem pmissis arbitraver int partes pd qd pd Johes Tinker solvet pfat Thome Genn viginti solid & quod pd Christopherus Tinker solvet pfat Thome Genn viginti solid & qd pd Lawrenc Ropston solvet pfat Thome Genn quadraginta solid Et quod pd Johes Tinker Xpoferus & Lawrenc facent sigillarent & delibarent eidem Thome Genn general relaxacon omni debit & demand usq ad eundem vicesimum secundum diem Novembris Acetiam quod pd Thomas Genn sup solucon sepal denar summa ei arbitrat fore solut ut pfertur faceret sigillaret & delibaret eisdem Johi Xpofero & Laurencio general Relaxacon omi debit & demand usq ad eundem vicesimum secundum diem Novembris Quo lco & audito idem Xpoferus Tinker dic quod pd Thomas Accon suam pd' vsus eum here non debet quia dic quod bene & verum est quod Arbitratores pd accept sup se oue arbitrandi de & sup pmissis pdicto vicesimo secundo die Novembris Anno tricesimo secundo supdicto p verba absq scripto Arbitraver de & sup pmissis int ptes pd' modo & forma pd' put pd' Thomas supius allegavit set idem Xpoferus Tinker ulterius dic quod ipse immediate post publicacon Arbitrij pd' p Arbitratores pd' sic ut pfertur fact scilt pd' vicesimo secundo die Novembris Anno tricesimo secundo supdicto apud Almondbury pd obtulit ad solvend' eidem Thome pd viginti solid' ei p Arbitrium pd' p eundem Xpoferum Tinker solut fore arbitrat Et adtunc & ibm scribi fecit & causavit quandm general Relaxacon p quam idem Xpoferus Tinker p se Executor & Administrator suis remisit relaxavit & imppm quiet clam eidem Thome Genn Executor & Administrator suis oia & oimod' accon & actones reales psonales sive mixtas deba debit Billas Obligacones summam sive summas pecunie secas molestacon (Angl troubles) Judicia Execucon Bria Error Querelas Transgr & Demand' quecunque que vsus pd' Thomam Executor vel Administrator suos adtunc huit antetunc huisset & imposteru here clamare seu demandare potuisset de p vel concernen aliquam materiam sive actionem causam sive colorem actionis quascunq a principio mundi usq; diem dat scripti relaxationis pd' Et eandm general Relaxationem adtunc & ibm sigillavit & ut factum suum eidem Thome delibare adtunc & ibm obtulit secundum formam & effectum Arbitrij pd' quos quidm viginti solid' necnon pd' scriptum Relaxationis pd' Thomas de eodem Xpofero Tinker recipe & acceptare secundum formam & effectum Arbitrij pd' adtunc & ibm penitus recusavit Et hoc parat est verificare unde pet Judiciu si pd' Thomas accon suam pd' vsus eum here debeat &c.

Verbal Award.

Actio non.

The Defendant pleads he offered to pay the Award-money, and tendered a general Release, and the Plt' refused.

The tender of the Release.

Et pd' Thomas Genn dic quod ipse p aliqua pallegata ab Actione sua pd' hend' pcludi non debet quia dic quod bene & verum est quod pd' Xpofer Tinker obtulit solve pfat Thome Genn pd viginti solid' ut pfertur Arbitrat fore solut p pfat Xpoferum Tinker put idem Xpoferus Tinker supius allegavit sed idem Thomas Genn ulterius dic quod postea ante diem impetracon Bris Original ejusdem Thome Genn in hac parte scilt undecimo die Aprilis Anno Regni dcd Dni Regis nunc tricesimo tertio ipse idem Thomas Genn apud Almondbury pd' requisivit pfat Xpofer Tinker solve eidem Thome Genn eosdem viginti solid' ei p ipsum Xpoferu Tinker ut pfertur arbitrat fore solut quos quidem viginti solid' ei solve pd' Xpoferus Tinker adtunc & ibm penitus recusavit & nondum solvit contra formam & effectum

Replic. Plt. confesseth the Deft. offered to pay the Award-money, and saith at another time he demanded it of him, and then he refused.

effectum Arbitrij pd' Et hoc parat est verificare unde pet Judiciū & debm suum pd unacum dampnis suis occasione detentionis debi illius sibi adjudicari &c.

Def' demurs. Et pd Xpoferus Tinker dic quod pdict' placitum pdict' Thome Genn supius replicando placitat minus sufficien in lege existit ad pdict' Thomam accionem suam pdict' versus eundm Xpoferum Tinker hend manutenend quodq ipse ad placitum illud modo & forma pdict' plitat necesse non habet nec p legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficien replicacon pdict Thome in hac parte idem Xpoferus pet Judicium & qd pd Thomas ab accone sua pd hend pcludatur &c.

Joynder in Demurr'. Et pdict Thomas Genn ex quo ipse sufficien materiam in lege in Replicatione sua pdict' ad Accon suam pdict' versus pfat Xpoferum habend manutenend supius allegavit quā ipse parat est verificare quam quidem materiam pdict' Xpoferus non dedic nec ad eam aliqualit respond set verificacon ill admittere oīo recusavit ut prius pet Judicium & debm suum pdict' unacum dampnis suis occone dentencon debi illius sibi adjudicari &c. Et quia Justic hic se advisare volunt de & super pmissis priusquam Judicium inde reddant dies dat est partibus pdict' hic usq a die Sci Michis in tres septimanas de audiendo inde Judicio suo eo quod ijdem Justic hic inde nondum &c.

Judgment pro Defendant. Vide le Report.

Trin:

Trin. 2 W. & M. Rot. 1596.

Holmes *versus* Seller.

Vide *Levinz* Part III. fol. 305.

Ebor' ss. JOhannes Seller nuper de Leavening in Com̄ p̄d Yeom̄ alias dictus Johannem Seller de Leavening-Dale in Com̄ Ebor̄ Yeom̄ sum̄ fuit ad respondend̄ Thome Holmes de placito quod reddat ei viginti librās quas ei debet & injuste detinet &c. Et unde idem Thomas p Georgium Watson Attorn̄ suum dic quod cum p̄dcus Johannes vicesimo quinto die Aprilis Anno Regni nup Regis Jacobi secundi primo apud Castrum Ebor̄ p quoddm̄ scriptum suum Obligatorium concessisset se teneri p̄fat Thome in p̄dict' viginti libr̄ solvend̄ eidem Thome cum inde postea requisit fuisset p̄d tamen Johes licet sepius requisit p̄dict' viginti libr̄ eidem Thome nondum reddidit sed ill̄ ei hucusq; reddere contradixit & adhuc contradic unde dic quod deteriorat est & dampnum het ad valenciam quadraginta librār̄ Et inde p̄duc sectam &c. Et p̄fert hic in Cur̄ scriptum p̄d q̄d debm̄ p̄d in forma p̄d testatur cujus dat est eisdem die & anno sup̄dictis &c. — Debt on Bond for performance of Articles about a way. — Narrat.

Et p̄dict' Johannes p Francisc̄ Langley Attorn̄ suū ven̄ & defend̄ vim & injur̄ quando &c. Et pet auditum scripti p̄d Et ei legitur &c. pet etiam auditum Condicon̄ ejusdem scripti & ei legitur in hec verba; ss. The Condition of this Obligation is such, That if the above-bound *John Seller*, his Executors and Administrators, shall and do well and truly observe, perform, fulfil, accomplish, pay and keep all and singular the Covenants, Grants, Articles, Clauses, Provisoes, Payments, Conditions and Agreements whatsoever, which on the part and behalf of the said *John Seller*, his Heirs, Executors and Administrators, are or ought to be observed, performed, fulfilled, accomplished, paid and kept, comprized or mentioned in certain Articles of Agreement bearing even date with these Presents, made and expressed to be made between the said *John Seller* of the one part, and the said *Thomas Holmes* of the other part, in all things according to the true intent and meaning of the said Articles, then this present Obligation to be void and of none effect, or else to be and remain in full force, power and vertue. Quibus lectis & audic idem Johannes dic quod p̄d Thomas acconem suam p̄d inde versus habere non debet quia dic quod Articuli p̄d in Conditione p̄dict' supius mencionat fact fuer apud Castrum Ebor̄ p̄d p̄dicto vicesimo quinto die Aprilis Anno Regni dn̄i Dn̄i Jacobi secundi nup Regis Anglie &c. primo supradicto inter ipsum Johannem Seller p nomen Johannis Seller de Leavening-Dale in Com̄ Ebor̄ Yeom̄ ex una parte & p̄fat Thomam Holmes p nomen Thome Holmes de L. in dicto Com̄ Yeom̄ ex altera parte quor̄ quidm̄ Articulor̄ alteram partem sigillo ipsius Thome sigillat geren̄ dat eisdem die & anno idem Johannes hic in Cur̄ p̄fert p quos quidem Articulos Imprimis idem Johannes Seller p seipso Hered̄ Executor Administrator & Assign̄ suis & eor̄ quolibet convenit p̄misit concessit & agreavid ad & cum dicto Thoma Holmes Hered̄ & Assign̄ suis & quolibet — Articles set forth.

libet

libet eoꝝ q̄d licitū foret ad & p dicto Thoma Holmes Hered Executor Administrator & Assign suis & quolibet eoꝝ de tempore in tempus & ad omnia tempora tunc postea imperpetuū quiete & pacifice habere tenere uti occupare & gaudere altam viam p Carect Carriag fugiacon adior equitacon ambulacon & omōdis al ppositis quibuscunq trans & p Clm ejusdem Johis Seller cōit vocat Coney-Garth-head scituat jacen & existen in L. pdict ad Clm dicti Thome Holmes adjungen sup dictum Clm ejusdem Johis Seller cōit etiam vocat Coney-Garth-head scituat in L. pdict Item dictus Thomas Holmes in cons pmissorum supdict p seipso Hered Executor & Administrator suis p eosdem Articulos convenit pmisit concessit & agreavit ad & cum eodem Johe Seller Hered Executor Administrator & Assign suis & quolibet eoꝝ modo & forma sequen videlt quod ipse idem Thomas Holmes sup sigillacon & delibacon Articuloꝝ pdict solvet eidem Johi Seller summam viginc & unius solid & sex denar legalis monete Angl Ac etiam quod ipse idem Thomas Holmes Hered Executor Administrator & Assign sui annuatim & quolibet anno tunc postea imppetuum solvent seu solvi causarent eidem Johanni Seller Hered Executor Administrator & Assign suis annuum sive annual reddit sex denar legalis monete Angl ad vel sup Festum diem Annunciacon Beate Marie Virginis Ac ulterius quod ipse idem Thomas Holmes Hered & Assign sui de tempore in tempus & ad omnia tempora tunc postea imperpetuum ad ejus & eoꝝ ppr onera & custag repararent manutenerent & custodirent Januam tunc stanc & existen int dictum Clm ejusdem Johis Seller & dictum Clm p̄fat Thome Holmes in bon & sufficien reparacon Et postremo quod ipse pdict Thomas Holmes Hered & Assign sui ad aliquod tempus tunc postea non obstruerent implerent (Angl dam up) seu diverterent Aque cursum sive pfluvium (Angl Stream) tunc curren de & ex dicto Clo p̄fat Thome Holmes in Clm ejusdem Johis Seller Et ulterius idem Johes Seller p seipso Hered Executor & Administrator suis convenit pmisit concessit & agreavit ad & cum dicto Thoma Holmes Hered & Assign suis p Articulos pdict quod si Georgius Seller fil & heres dci Johannis Seller viveret ad attingend etat viginti & unius annorum tunc ipse pdict Georgius Seller ad requisiconem & onera dci Thome Holmes Hered & Assign suoꝝ sigillaret & execuiretur dicto Thome Holmes Hered & Assign suis aliqua facta Articulos seu concession p manifestacon & confirmacon Tituli dci Thome Holmes ad altam viam in Articulis pdict supius menconat sub annual reddit in Articulis pdictis reservat put p Articulos pd plenius liquet & apparet que sunt omnia convencon concession Articuli Clausule & Agreament in Articulis pdict content ex parte ipsius Johannis Seller observand pformand pimplend & custodiend Et idem Johannes in facto dic quod pdict Georgius Seller in Articulis pdict supius nōiat nondum attigit ad etat viginti & unius annoꝝ Et idem Johannes ulterius dic quod ipse idem Johannes semper a tempore confeccon Articuloꝝ pdictoꝝ usq diem impetracon Brevis Original ipsius Thome bene & veracit observavit pformavit pimplevit & custodivit omnia & singula Convencon Concession Articulos & Agreament in eisdem Articulis content que ex parte ipsius Johannis observand performand perimplend & custodiend' fuer secundum formam & effectum Articulorum pdictorum Et hoc parat est verificare unde pet Judicium si pd' Thomas acconem suam pd inde versus eum here debeat &c.

Et pdict Thomas dic quod ipse p aliqua pallegat ab actione sua pdicta hend' pcludi non debet quia ptestando quod pdict Johannes non pformavit seu implevit aliquas Convencones seu Concessiones in Articulis

ticulis p̄dict' content' ex parte sua pformand & pimplend' secundum formam & effectum eorundem Articulorum p plito idem Thomas dicit quod post confectionem Articulorum p̄dictorum & ante diem impetrationis Bris Original ipsius Thome scilt decimo die Februarij Anno Regni Dnī Regis & Dnē Regine nunc primo quidam Johannes Seller just tunc tenens & firmarius p̄dicti Johannis modo defendent de Clo suo p̄dicto vocat' Coney-Garth-head in Leavening p̄dict' viam ipsius Thome p & trans idm Clausum ei p eundem Johem modo defend' in forma p̄dict' concess in eodm Clo penitus obstruxit & obstupavit & ipm Thomam ad viam illam hend' vel eadem utend' adtunc & ibm impedivit & denegavit contra formam & effectum Articulorum p̄dictorum Et hoc parat' est verificare unde per Judicium & debm sum p̄dcm unacū dampnis suis occasione detentionis debi illius sibi adjudicari &c. Plea by obstructing the way.

Et p̄dictus Johannes dic' quod plitum p̄dict' p p̄fat' Thomam modo & forma p̄dict' supius replicand' placitat' materiaq; in eodem content' minus sufficien in lege existunt ad actionem ipsius Thome p̄dict' versus p̄dict' Johannem habend' manutenend' Ad quod ipse idem Johannes necesse non habet nec per legem terre tenetur aliquo modo respondere Et hoc parat' est verificare unde p defectu sufficien Replicacon in hac parte idem Johannes (ut prius) per Judicium Et quod p̄d' Thomas ab accon sua p̄d' versus ipm Johem hend' pcludatur &c. Demurr'.

Et p̄dict' Thomas ex quo ipse sufficien materiam in lege in plito suo p̄dicto supius replicand' plitat' ad actionem suam p̄dcam versus p̄fat' Johem habend' manutenend' superius allegavit quam ipse parat' est verificare quam quidem materiam p̄dict' Johes non dedicit nec ad eam aliqualit' respond' sed verificationem illam admittere omio recusat ut prius per Judicium & debm sum p̄dcum una cum dampnis suis &c. sibi adjudicari &c. Joynder.

Et quia Justic' hic se advisare volunt de & sup p̄missis priusqm Judicium inde reddant dies dat' est partibus p̄dictis hicusq; a die Scī Michis in tres septimanas de audiendo inde Judicio suo eo quod ijdem Justic' hic inde nondum &c.

Judgment for the Defendant upon the Replication. Vide le Reports.

Hill. 4 & 5 W. & M. Rot. 1450.

Marsh *versus* Freeman.

Vide *Levinz* Part III. fol. 383.

1 Inst. 47. 292. b. Fitz. N. B. 133. a. 1 Leon. 208. Mo. Pl. 51.

Debt on Covenant and Agreement.

To pay 5 *l. per annum* for five years towards the Education and Maintenance of the Defendant's Daugheer. *Note*, Defendant binds himself to performance, but in no Sum.

London' ss. JOhes Freeman nup de Hadleigh in Com Suffolk' Yeom alias dictus John Freeman of Hadleigh in the County of Suffolk Yeoman sum fuit ad respondend' Thome Marsh de placito quod reddat ei Centum solidos quos ei debet & injuste detinet &c. Et unde idem Thomas per Thomam Paris Attorn suum dic quod cum pdictus Johannes decimo nono die Augusti Anno Dni Millesimo sexcentesimo nonagesimo apud London in Parochia Beate Marie de Arcubus in Warda de Cheape p Billam suam Obligatoriam quam idem Thomas Marsh sigillo pdict Johannis signat hic in Cur pfert cujus dat est die & anno supradictis pmisit & agreavit solvere eidem Thome Marsh annualem summam quinque librarum legalis monete Anglie p & durant termino quinque annorum super duos dies in anno videlicet super vicesimum quartum diem Junij & vicesimum quintum diem Decembris per equas & equales portiones prima solutio incipiend' super vicesimum quintum diem Decembris tunc prox & dcm termin incipiend' ad vicesimum quartum diem Junij (Anglice Midsummer) tunc ult pteri p manutenentia & educatione Elizabethe Freeman filie ipsius Johannis cum esculent poculent lect lotione & apparat (Anglice Apparel) p & durant termino pdicto in casu dicta filia ipsius Johannis tamdiu viveret aut continuaret cum dicto Thoma Marsh Et pdictus Johannes p eandem Billam obligavit se Heredes Executores & Administratores suos firmiter p eandem Billam ad veram pformanc agreamenti pdict put p Billam pdictam apparet.

Plt. avers how long she lived with him.

Et idem Thomas Marsh in facto dic quod pdicta Elizabetha vixit & continuavit cum eodem Thoma Marsh a vicesimo tertio die Junij prox ante diem dat Bille pdicte usq; in ad & post vicesimum quartum diem Junij Anno Dni Millesimo sexcentesimo nonagesimo secundo quodq; ipse idem Thomas p totum idem tempus manutenuit & sustentavit eandem Elizabeth' cum esculent poculent lect lotione & apparat (Anglice Apparel) scilicet apud London pdict in Parochia & Warda pdict Et Centum solid' de annual solutione pdict p uno anno integro finit ad eundem vicesimum quartum diem Junij ult supdict eidem Thome Marsh aretro fuer & adhuc insolut existunt p quod actio accrevit eidem Thome Marsh ad exigend' & habend' de pfat Johanne pdict Centum solidos pdict tamen Johannes licet sepius requisit pdict Centum solidos eidem Thome Marsh nondum reddidit sed ill ei hucusque reddere omnio contradixit & adhuc contradic unde dic quod deteriorat est Et dampnum habet ad valenciam decem librarum Et inde pduc sectam &c.

Et

Et p̄dictus Johannes p Mattheum Isaac Attorn̄ suū ven̄ & defend vim & injur̄ quando &c. Et dic̄ quod p̄dictus Thomas Marsh Actionem suam p̄dicc̄ versus eum habere non debet Quia protestando quod p̄dicta Elizabetha in Billa p̄dicc̄ nominac̄ non fuit filia p̄dicti Johannis tempore sigillac̄onis & deliberac̄onis Bille illius pro placito idem Johannes dic̄ quod p̄dictus terminus quinque annorum in Billa p̄dicta menc̄onac̄ adhuc nondum expirac̄ existit Et hoc parac̄ est verificare unde per Judicium si p̄dictus Thomas Marsh acc̄onem suam p̄dcam̄ inde versus eum habere debeat &c.

Deft' pleads Protestando, That she was not his Daughter at the time of the Agreement. For Plea that the 5 years are not expired.

Et p̄dictus Thomas Marsh dic̄ q̄d p̄dictum plitum p̄dicti Johis Freeman superius in barram placitac̄ ac materia in eodem placito contenc̄ minus sufficien̄ in lege existunt ad ipsum Thomam Marsh ab Actione sua p̄dicta versus p̄dictum Johannem habend̄ p̄cludend̄ quodq; ipse ad placitum illud modo & forma p̄dictis placitac̄ necesse non habet nec per legem terre tenetur respondere unde pro defectu sufficien̄ respons ipsius Johannis in hac parte idem Thomas Marsh pec̄ Judicm̄ & debin suū p̄dcm̄ unacum dampnis suis occasione detenc̄onis debi illius sibi adjudicari &c.

Ple' demurs, general.

Et p̄dictus Johannes Freeman ex quo ipse sufficien̄ materiam in lege ad p̄dcm̄ Thomam Marsh ab Actione sua p̄dca̅ versus eum hend̄ p̄cludend̄ superius allegavit quam ipse parac̄ est verificare quam quidem materiam p̄dcus Thomas Marsh non dedic̄ nec ad eam aliqualiter respondet sed verificationem ill̄ admitt̄ omnium recusat ut prius pec̄ Judicm̄ Et quod p̄dictus Thomas Marsh ab Actione sua p̄dicta inde v̄sus eum hend̄ p̄cludatur &c.

Joynder in Demurr'.

Judgment pro Quer' per tot' Cur'.

Trin. 34 Car. II. C. B. Rot. 1380.

Salter *versus* Cobbold.

Vide *Levinz* Part III. fol. 84.

Debt for Rent against Administratrix upon two Demises, the first at will, the second for 9 years, and lays the first in the *debet & detinet*, the second in the *detinet*.

Suffolk' ss. Thomasina Cobbold nuper de Chattisham in Com̃ p̃dict Vidua Administratrix Bonorum & Catallorum que fuer̃ Henr̃ Cobbold qui obijt intestat̃ &c. sum̃ fuit ad respondend̃ Thome Salter Geñ de plito quod reddat ei sexaginta & quatuor libras & decem solidos quos ei debet & injuste detinet ac Centum viginti & novem libras quas ei injuste detinet &c. Et unde idem Thomas p Barnabam Gibson Attorn̄ suum dic̃ quod cum idem Thomas primo die Septembris Anno Regni Dn̄i Regis nunc vicesimo octavo apud Flowton dimisisset & ad firmam tradidisset p̃fat̃ Henr̃ in vita sua unum Messuagium sexaginta acras Terre decem acras Prati & sexaginta acras Pasture cum ptiñ in Flowton p̃dicta Blakerham sup Montem & Bramford in Com̃ p̃dicto hend̃ & occupand̃ eidem Henr̃ a Festo Sc̃i Michis Archi tunc prox̃ sequen̄ ad Voluntatem ipsius Thome & p̃fat̃ Henr̃ reddend' inde annuatim & quolibet anno quo p̃dict̃ Henr̃ ten̄ta p̃d cum ptiñ virtute dimissionis illius heret & occuparet quadraginta & tres libras ad Festa Annunciac̃ones Beate Marie Virginis & Sc̃i Michis Archi p equales porc̃ones solvend̃ virtute cujus dimissiones p̃dictus Henr̃ in vita sua in Crastino p̃dict̃ Festi Sc̃i Michis Archi anno vicesimo octavo sup̃dicto in ten̄ta p̃dicta cum ptiñ intravit ac eadem ten̄ta cum ptiñ extunc usque Festum Annunciac̃onis Beate Marie Virginis Anno Regni dc̃i Dn̄i Regis nunc tricesimo secundo huit & occupavit ac sexaginta & quatuor libr̃ & decem solid̃ de redditu p̃d p uno anno & dimid̃ unius anni finit̃ ad p̃dict̃ Festum Annunciac̃onis Beate Marie Virginis Anno Regni dc̃i Dn̄i Regis nunc tricesimo secundo sup̃dicto eidem Thome in vita p̃fat̃ Henr̃ aretro fuer̃ & insolut̃ p quod Ac̃cio accrevit eidem Thome ad exigend̃ & hend̃ de p̃fat̃ Henr̃ in vita sua p̃dict̃ sexaginta & quatuor libr̃ & decem solid̃ de p̃dict̃ Centum vigint̃ & nov̄ libr̃ Aceciam cum idem Thomas p̃dict̃ primo die Decembris Anno Regni dc̃i Dn̄i Regis nunc vicesimo octavo sup̃dicto apud Flowton p̃dict̃ dimisisset & ad firmam tradidisset p̃fat̃ Henr̃ in vita sua unum al̃ Messuagium al̃ sexaginta acras Terre al̃ decem acras Prati & al̃ sexaginta acras Pasture cum ptiñ in Flowton Blakenham sup Montem & Bramford p̃dict̃ in Com̃ p̃dicto hend' & occupand' eidem Henr̃ & Assign̄ suis a p̃dicto Festo Sc̃i Michis Archi tunc prox̃ sequen̄ usque finem & terminum novem annorum extunc prox̃ sequen̄ & plenarie complend̃ & finiend̃ reddend̃ inde annuatim durañ termino p̃dicto eidem Thome quadraginta & tres libr̃ ad Festa Annunciac̃onis Beate Marie Virginis & Sc̃i Michis Archi p equales porc̃ones solvend̃ virtute cujus quidem dimissionis ult̃ menc̃onat̃ p̃dcus Henr̃ in vita sua in Crastino p̃dict̃ Festi Sc̃i Michis Archi anno vicesimo octavo sup̃dicto in ten̄ta p̃dicta ult̃ menc̃onat̃ cum ptiñ intravit & fuit inde possessionat̃ Et sic inde possessionat̃ existen̄ p̃dictus Henr̃ primo die Augusti Anno Regni dc̃i Dn̄i Regis nunc tricesimo secundo sup̃dicto apud Flowton p̃d obijt intestat̃

Second Demise.

intestat de tenks pdict ult mencionat cum ptin' ei sic ut pfertur dimiss possessionat post cujus mortem scilt secundo die Augusti anno tricesimo secundo supradicto Administratakon omnium Bonorum & Catallorum que fuer pdict Henr in vita sua pfat Thomasine post mortem pfat Henr apud Flowton pdict commissa fuit Ac pdict Thomasina postea scilt tertio die Augusti anno tricesimo secundo supdicto in tenta pdicta cum ptin ult mencionat intravit ac fuit inde possessionat ratione administrakonis pdicte Ac sexaginta & quatuor libr & decem solid de redditu pd ult mencionat p uno anno & dimid unius anni finit ad Festum Annunciakonis Beate Marie Virginis Anno Regni dcd Dnd Regis nunc tricesimo secundo supdicto in vita pfat Henr eidem Thome aretro fuer insolut p quod Actio accrevit eidem Thome ad exigend & hend de pfat Henr in vita sua pdict sexaginta & quatuor libr & decem solid ult mencionat de pdict Centum viginti & novem libris resid Ac sexaginta & quatuor & decem solidos de redditu pdict ult mencionat p uno anno & dimid unius anni finit ad Festum Scd Michis Archi Anno Regni dcd Dnd Regis nunc tricesimo tertio post mortem pdict Henr eidem Thome aretro fuer insolut & adhuc existunt insolut p quod acko accrevit eidem Thome ad exigend & hend de pfat Thomasina easdem sexaginta & quatuor libr & decem solidos pdictus tamen Henr in vita sua ac pdicta Thomasina post ipsius Thomasine mortem licet sepius requisit pdictas Centum viginti & novem libras eidem Thome nondum reddider sed ill ei reddere contradixer ac pfat Thomasina ill ei reddere contradic & injuste detinet Ac pdicta Thomasina licet sepius requisit pd sexaginta & quatuor libras & decem solid superius ult mencionat eidem Thome nondum reddidit sed ill ei hucusq reddere contradixit & adhuc contradic unde dic quod deteriorat est & dampnum habet & ad valenciam quadraginta librarum Et inde pduc sectam &c.

Administratio.

Et pdicta Thomasina p Robtm Hamby Attorn suum ven & defend vim & injur quando &c. Et dic quod narrakon pdicta materiaq in eadem content minus sufficien in lege existit ad ipsum Thomam actionem suam pdcam versus ipm Thomasinam hend manutenend Quodq ipsa ad narrakonem pdcam modo & forma pdcis fact necesse non het nec p legem terre tenet respondere Et hoc parat est verificare unde pet Judicm de narr pd &c.

Demurrer general to the Declaration.

Et pdcus Thomas ex quo ipse sufficien materiam in lege in narrakone pdicta ad ackonem suam pdcam vsus pfat Thomasinam hend manutenend supius narrando allegavit quam ipse parat est verificare quam quidem materiam pdca Thomasina non dedic nec ad eam aliqualit respond sed vificationem ill admittere omio recusat idem Thomas pet Judicm & deba sua pdca necnon dampna sua occasione detenkonis debitorum illorum sibi adjudicari &c. Et quia Justic hic &c.

Judgment pro Def'. Vide le Report. p. 74.

Hill. 2 W. & M. Rot. 445.

Haight *versus* Hull & Ux' & al' Exec'.

Debt against Executors on Bond by the Testator.

London' ss. Thomas Hull nup de London Gen & Penelope uxor ejus Relicta & Executrix Testamenti Thome Bostock Gen defuncti nup dicti Thomam Bostock de London Gen Robertus Raworth nup de London Haberdasher & Lucas Langhorne nup de London Haberdasher Executores Testamenti pfat Thome Bostock pdict simulcum eadem Penelope sum fuer ad respond Johi Haight de placito quod reddat ei ducent & sexagint libr quas ei injuste detinent &c. Et unde idem Johannes p Franciscum Leigh Attorn suum dic quod cum pdcus Thomas Bostock in vita sua scilicet vicesimo primo die Novembris Anno Regni Dni Caroli secundi nup Regis Angl &c. tricesimo sexto apud London in Parochia Beate Marie de Arcubus in Warda de Cheape p quoddam scriptum suu Obligatorium concessisset se teneri eidem Johanni in pdict ducent & sexagint libr solvend eidem Johanni cum inde requisit fuisset pdcus tamen Thomas Bostock in vita sua ac pdict Penelope dum ipsa sola fuit Robertus & Lucas ac pdict Thomas Hull & Penelope post disponsalia int eos celebrat Robertus & Lucas post mortem ipsius Thome Bostock licet sepius requisit pdict ducentas & sexaginta libras eidem Johanni non reddider set ill ei reddere contradixer ac pdicti Thomas Hull & Penelope Robertus & Lucas adhuc reddere contradicunt ac injuste detinent unde dic quod deteriorat est & dampnum habet ad valenciam viginti libr Et inde pduc sectam &c. Et pfert hic in Cur scriptum pdcm quod debm pdcm in forma pdca testatur cujus dat est eisdem die & anno supdictis &c.

Oyer of the Condition.

Et pdict Lucas p Georgium Wheeler Attorn suum ven & defend vim & injur quando &c. Et pet audit scripti pdicti Et ei legitur &c. pet etiam auditum Condiconis ejusdem scripti Et ei legitur in hec verba: The Condition of this Obligation is such, That if the above-bound *Thomas Bostock*, his Heirs, Executors or Administrators, shall and do well and truly pay or cause to be paid unto the above-named *John Haight* his Executors, Administrators or Assigns, the full Sum of One hundred and thirty seven Pounds sixteen Shillings of good and lawful Money of *England* on the two and twentieth day of *November* which shall be in the year of our Lord GOD One Thousand six hundred eighty five, then this Obligation to be void, or else to remain in full force and vertue. Quibus lectis & auditis idem Lucas pet Judicm de Brevi pdict quia dic quod pdict Johannes alias scilicet Termino Sci Michis ult pterit in Cur Dni Regis & Dne Regine de Banco hic scilicet apud Westm implitavit ipsum Lucam & quandam Susannam tunc & adhuc Ux' ejus Sororem & Hered pfat Thome Bostock p nomen Luce Langhorne nup de London Haberdasher & Susanne Uxoris ejus Soror & Hered Thome Bostock Gen nup dic Thomam Bostock de London Gen de plito debi p pdict ducent & sexagint libr de & sup scripto Obligatorio pdict in narr pdict supius specificat Et unde idem Johannes adtunc narrando versus ipsas Lucam & Susannam de & in eodem plito p pdict Fran-

One Defendant pleads in Abatement, Other Action brought *Michaelmas* before against him & *Susannah* his Wife, Sister and Heir of the Testator, in *eadem Cur'*.

Franciſcum Leigh tunc Attorn̄ ſuum dixit quod cum p̄dict Thomas in vita ſua frater p̄dict Suſanne cujus heres ipſa eſt viceſimo primo die Novembris Anno Regni Dn̄i Caroli ſecundi nup Regis Angl &c. tri-ceſimo ſexto apud London̄ in Parochia Beate Marie de Arcubus in Warda de Cheape p quoddam ſcriptum ſuum Obligatorium concesſiſſet ſe teneri p̄fat Johanni in p̄dict ducent & ſexagint libr ſolvend eidem Johanni cum inde requiſit fuiſſet Et ad eandem ſolutionem bene & fide-liter faciend p̄dict Thomas Boſtock obligaſſet ſe & Heredes ſuos p idem ſcriptum p̄dict tamen Thomas in vita ſua ac p̄dict Lucas & Suſanna Soror & Heres p̄dict Thome poſt mortem p̄dict Thome licet ſepius requiſit p̄dict ducent & ſexagint libr eidem Johan' non reddidiſſent ſed ill ei reddere oīo contradixiſſent ac p̄dict Lucas & Suſanna adtunc red-dere contradixer unde dixit quod deteriorat fuit & dampnum huit ad valenciam vigint libr Et inde p̄duxit ſectam &c. Et ptul hic in Cur ſcriptum p̄dcm̄ quod debm p̄dict in forma p̄dict teſtatur cujus dat fuit die & anno ſupdicto &c. Et ijdem Lucas & Suſanna p p̄dict Georgm̄ Wheeler Attorn̄ ſuum ven̄ & defend vim & injur quando &c. Et pet auditum ſcripti p̄dict Et eis legebatur &c. pet etiam auditum Condi-tionis ejuſdem ſcripti Et eis legebatur in hec verba: The Condition of this Obligation is ſuch, That if the above bound *Thomas Boſtock*, his Heirs, Executors or Adminiſtrators, ſhall and do well and truly pay or cauſe to be paid unto the above-named *John Haight*, his Executors, Admi-niſtrators or Aſſigns, the full Sum of One hundred and thirty ſeven Pounds ſixteen Shillings of good and lawful Money of *England* on the two and twentieth day of *November*, which ſhall be in the year of our Lord One thouſand ſix hundred and eighty five, then this Obligation to be void, or elſe to remain in full force and vertue. Quibus lc̄is & auditis ijdem Lucas & Suſanna ſalvis ſibi omnibus & omnimodis advantagijs & allegationibus quibuſcunq; tam ad Breve quam ad Narrationem p̄dict petier licentiam inde interloquendi hic uſq; in Octabis Sc̄i Hillarij iſto eodem termino Et habuer &c. Idem dies dat fuit p̄fat Johanni hoc &c. put p Record & Proceſs in eadem Cur hic reſiden̄ plenius ap-paret. Et idem Lucas in facto dic quod p̄dict placitum verſus ipſos Lucam & Suſannam ut Sororem & Hered p̄fat Thome Boſtock ut p̄fertur pſecut in eadem Cur hic adhuc pendet mie determinat diſcon-tinuat ſive diſcuſſ Et hoc parat eſt verificare unde pet Judicm̄ de iſto Brevi verſus ipm̄ Lucam & p̄fat Thom̄ Hull & Penelopen Ux' ejus & Robtum in forma p̄dict impetrat & modo pſecut penden̄ alio placito p̄dict verſus ipſos Lucam & Suſannam ut Sororem & Hered p̄fat Thome Boſtock p eadem cauſa Cum hoc quod idem Lucas verificare vult quod ſcriptum Obligatorium p̄dict de & ſup quo p̄dict Johannes ſupius verſus ipſum Lucam & p̄fat Thomam Hull & Penelopen & Robertum ut Executor in forma p̄dicta modo narrat ac p̄dic ſcriptum Obligatorium de & ſup quo p̄dict Johannes in alio placito p̄dict ver-ſus ipſum Lucam & p̄fat Suſannam ut Sororem & Hered p̄fat Thome Boſtock alias in forma p̄dict narravit ſunt unum & idem ſcriptum Obligatorium & non aliud neq; diverſum &c.

The Declaration against them as Siſter and Heir.

Special Imparlance.

Which Suit is yet depending in the ſame Court.

Averment of the Identity of the Bond.

Et p̄dict Johannes dic quod p̄dictum plitm̄ p̄dicti Luce ſuperius in caſſationem Brevis ipſius Johannis p̄dict ſupius plitat ac materia in eodem content minus ſufficien̄ in lege exiſtunt ad Breve illud caſſand ſeu ad ipſum Johannem ab Actione ſua p̄dict verſus ipſum hend p̄clu-dend Quodq; ipſe ad plitm illud modo & forma p̄dict plitat neceſſe non het nec p legem terre tenetur reſpondere Et hoc parat eſt verificare unde p defectu ſufficien̄ pliti p̄dict Luce in hac parte idem Johannes pet Judicm̄ & quod Breve ſuum p̄dict ſatis bon̄ adjudicetur &c.

Plt' demurs.

Fr. Withens.

Et

Joynder in Demurrer.

Et p̄dict' Lucas ex quo ipse sufficiend materiam in lege in cassac̄one p̄dict' Brevis ipsius Johannis versus ipsum Lucam & p̄fat' Thomam Hull & Penelopen & Robertum modo impetrat' superius allegavit quam ipse parat' est verificare quam quidem materiam idem Johannes non dedic' nec ad eam aliqualit' respond' set verificationem illam admittere om̄io recusat pet' Judic̄m & quod Breve illud ratione p ipsum allegat' cassetur &c. Et quia Justic' hic se advisare volunt de & super p̄missis p̄dict' unde partes p̄dict' posuer' se in Judic̄m Cur' priusquam Judic̄m inde reddant dies dat' est partibus p̄dictis hicusq; a die Pasche in quindecim dies de audiendo inde Judicio suo Eo quod iidem Justic' hic inde nondum &c.

Trin. 27 Car. II. Rot. 302.

Plummer *versus* Whitchcott.

Vide *Levinz* Part II. fol. 158.

B. R. 1 Cr. 231. Hob. 312. 5 Rep. 2. 7. b. 4 Rep. 265. b. Hob. 262. Debt on Escape.

London' ss. MEmorandum quod alias scilicet Termino Pasche ult' p̄terit' coram Domino Rege apud Westm̄ ven' Ellena Plummer Spinster p Andream Vidian Attorn̄ suum Et ptulit hic in Cur' dc̄' Dn̄' Regis tunc ibidem quandam Billam suam versus Jeremiam Whitchcott Baronettum in custodia Mar' &c. de plito debiti Et sunt Pleg' de p̄sequend' scilicet Johannes Doe & Ricardus Roe que quidem Billa sequitur in hec verba ss. London ss. Ellena Plummer Spinster queritur de Jeremiah Whitchcott Baronetto in custodia Marr' Maresc' Dn̄' Regis coram ipso Rege existend' de placito quod reddat ei duas mille & unam libras & unum solid' legalis monete Anglie quos ei debet & injuste detinet p eo videlicet quod cum eadem Ellena alias scilicet Termino Sc̄i Hillarij Annis Regni Dn̄' Caroli secundi nunc Regis Anglie &c. vicesimo & vicesimo primo in Cur' ipsius Dn̄' Regis coram ipso Rege (eadem Cur' apud Westm̄ in Com̄ Midd' tunc existen') p Judic̄m ejusdem Cur' recuperasset versus Alexandrum Holt alias dictum Alexandri Holt de London Armig' duas mille libras de debito necnon viginti & unum solidos p dampnis suis que sustinuisset tam occasione detenc̄onis debi illius quam p misis & custagijs suis p ipsum circa sectam suam in ea parte apposit' unde Convict' est Posteaq; scilicet die Lune primo post Crastinum Ascenc̄onis Domini Anno Regni dc̄' Dn̄' Regis nunc vicesimo quinto coram eodem Dn̄o Rege apud Westm̄ ven' p̄dict' Ellena in p̄pria persona sua Et p̄dict' Alexander adtunc p̄sens ibidem in Cur' ad petitionem p̄dict' Ellene p eandem Cur' dc̄' Dn̄' Regis coram ipso Rege ibidem committebatur in custod' Marr' Maresc' Dn̄' Regis in Execuc̄one p debito & dampnis p̄dict' Ad sectam p̄d' Ellene ibidem remansur' quousq; &c. Cumq; p̄dict' Jeremias vicesimo octavo

The Prisoner committed in Execution to the King's Bench.

die

die Martij anno vicesimo quinto supradicto & diu antea apud London pdict videlicet in Parochia Sci Bridgette alias Brides in Warda Farringdon extra seisit fuisset de & in Officio Gardiani Prisone Dni Regis le Fleete & custod Prisone & Prisonar commiss & committend eidem Prisone Ac de Capitali Messuagio vocat le Fleete cum pertin in Parochia & Warda pdict eidem Officio spectan & ptinen ut de Feodo & Jure Et sic inde seisit existen idem Jeremias postea scilicet eodem vicesimo octavo die Martij anno vicesimo quinto supradicto apud London pdict in Parochia & Warda pdict per quandam Indenturam suam adtunc & ibidem factam inter pfat Jeremiam per nomen Jeremie Whitchcott de Hendon in Com Midd Baronett ex una parte Et quendam Willielmum Duckinfield p nomen Willielmi Duckinfield de Duckinfield in Com Cestr Armigeri ex altera parte concessisset pfat Willielmo Duckinfield Officium & Messuagium pdict cum ptin habend & tenend pfat Willielo Duckinfield Executoribus Administratoribus & Assign suis p & durant naturalibus vitis pdict Willielmi Duckenfield & quorundam Thome Ogden de Parochia Sci Michis Cornhill London Vinarij Willielmi Outram Jun de Staple-Inn London Gen & Jacobi Gibbons de Interiori Templo London Gen & eorum diutius viven Virtute cujus quidem concessionis idem Willielmus Duckinfield postea scilicet sexto die Junij anno vicesimo quinto supradicto in Messuagium pdict cum ptin intravit Et fuit seisit de Officio pdict cum ptin ut de libo tento p termino vitarum pdict Willielmi Duckenfield Thome Ogden Willielmi Outram & Jacobi Gibbons & eorum diutius viven posteaq; scilicet decimo die Julij anno vicesimo quinto supradicto pdict Alexander Holt virtute cujusdam Brevis dci Dni Regis de habend corpus cum causis extra Cur Cancellar dci Dni Regis (eadem Cur apud Westm pdict in Com Midd pdict tunc existen) emanan Marr Maresc Cur Dni Regis coram ipso Rege sive ejus deputat ibidem direct pdict Alexander ductus fuit in eadem Cur Cancellar coram ipso Rege apud Westm pdict sub custodia Marr pdict Et p retorn ejusdem Brevis onerat fuit (inter alia) in Executione ad sectam pdict Ellene Plummer p pdict duabus mille libris de debito & viginti & un solidis p dampnis sup quo pdict Alexander Holt p eandem Cur Cancellar adadtunc & ibidem commiss fuit pdict Prisone dci Dni Regis de le Fleet (inter alia) in Execucone p debito & dampnis pdict ibidem moratur quousq; &c. pdictoq; Willielmo Duckinfield adtunc Gardiano pdict Prisone dci Dni Regis de le Fleet existen & pdicto Jeremia de reversione Officij pdict sic ut pfertur seisit existen idem Willielmus Duckinfield postea scilicet eodem decimo die Julij anno vicesimo quinto supdict apud London pdict in Parochia & Warda pd virtute Commissionis illius pdict Alexandrum Holt in execucone p debito & dampnis pdict habuit & recepit pdictoq; Alexandro sic in custodia pfat Willielmi Duckenfield Gardiani Prisone pdict ut pfertur existen pdictoq; Jeremia de reversione Officij pdict in forma pdict seisit existen idem Willielmus postea scilicet vicesimo die Februarij Anno Regni dci Dni Regis nunc vicesimo septimo apud London pdict in Parochia & Warda pdict pdcm Alexandrum Holt a custodia ipsius Willielmi Duckenfield ad largum quo voluit ire libere & voluntarie pmisit pdict Ellena de debito & dampnis pdict seu aliqua inde parcella min satisfact existen p quod pdict Willielmus Duckenfield eidem Ellene Plummer pdict duas mille & unam libras & unum solidos satisfecisse & solvisse debuit sed pdict Willielmus Duckenfield tempore concessionis Officij pdict eidem Willielmo seu tempore commissionis pdict Alexandri in Executione pdict Prisone de le Fleet seu tempore evasionis pdict seu ad aliquod aliud tempus

That the Deft was seized of the Office of Warden of the *Fleet*.

Who granted it to *Duckinfield* for three Lives.

That the Prisoner was turned over from the *Kings-Bench* to the *Fleet*,

And *Duckinfield* received him in Execution,

And after suffered him to go at large. But *Duckinfield* at the time of the grant of the Office, and at the time of the Prisoner's being in Execution, and at the time of the Escape, and at all times after, was insufficient.

Therefore the Debt is demanded of the Superior.

postea hucusq; non habuit aliqua Bona seu Catalla Terras seu Tenementa unde eidem Ellene de debito & dampnis pdictis satisfacere potest sed penitus inhabilis & insufficiens existit p quod ob insufficientiam pdict Willielmi Duckinfield Actio accrevit eidem Ellene ad exigend & habend de pfat Jeremia ut supiore pfat Willielmi Duckenfield pdict duas mille & unam libras & unum solid pdict tamen Jeremias licet sepius requisit &c. pdict duas mille & unam libras & unum solidum eidem Ellene nondum solvit sed ill ei hucusq; solvere omio contradixit & adhuc contradic ad dampnum ipsius Ellene ducentar librar Et inde pduc sectam &c.

Et modo ad hunc diem scilicet diem Veneris primo post Crin Scd Trinitatis isto eodem Termino usque quem diem pdict Jeremias Whitchcott habuit licentiam ad Billam pdict interloquend Et tunc ad respondend &c. coram Domino Rege apud Westm ven tam pdict Ellena Plummer p Attorn suum pdict quam pdict Jeremias p Willielmum Turbill Attorn suum Et idem Jeremias defend vim & injur quando &c. Et dic quod ipse non debet pfat Ellene pdict duas mille & unam libras & unum solidum nec aliquem inde denar modo & forma put pdict Ellena supius inde versus eum narravit Et de hoc pon se super priam Et pdict Ellena inde siliter &c. Ido ven inde Jur coram Dno Rege apud Westm die Mercurij primo post Octabas Scd Trinitatis Et qui nec &c. ad Recogn &c. quia tam &c. idem die dat est partib; pdictis ibm &c.

Issue *Non debet.*

Postea continuat inde pcess inter partes pdict de plito pdict p Jur ponit inter eas in respectu coram Dno Rege apud Westm usque diem Sabbati primo post tres septimanas Scd Michis extunc primo sequen nisi dilectus & fidelis Dnd Regis Mattheus Hale Mil Capitalis Justic dcd Dnd Regis ad placita in Cur ipsius Dnd Regis coram ipso Rege tenend assign prius die Veneris vicesimo quinto die Junij apud Guihald London per formam Statuti &c. ven p defectu Jur &c. Ad quem diem coram Dno Rege apud Westm ven partes pdict per Attorn suos pdict Et pfat Capitalis Justic coram quo &c. mis hic Recordum suu coram eo habit in hec verba Postea die & loco infracontent coram Mattheo Hale Mil Capitali Justic infranominat Associat sibi Roberto Langley Gen per formam Statuti &c. ven tam infranominat Ellena Plummer quam infrascript Jeremias Whitchcott per Attorn suos infracontent & Jur Jure unde infra fit menco exact quidam eorum videlicet Nicholaus Bendy Nathaniel Brookes Willielmus Hallersden & Ricardus Blackborne ven & in Jurat ill Jur existunt Et quia resid Jur eisdem Jure non comparuer Ido al de Circumstantibus p Vic London infrascript ad hoc elcd ad requisicon pdict Ellene Plummer & p Mandatum Capital Justic pdict de novo apponuntur quorum nomina panello infrascript affilantur secundum formam Statuti in hujusmodi Casu nup edit & pvis Et Jur sic de novo apponit videlicet Willielmus Skynner Percival Gilbourne Daniel Nicholl Richardus Goodlad Willielmus Withers Edwardus Beaker Georgius Billers & Nicholaus Caplin exact siliter ven qui ad veritatem de infracontent simulcum al Jur pdict prius impanellat & jurat dicend elcd triati & jurati dic super Sacramentum suum quod pdict Ellena alias scilicet Termino Scd Hillarij Annis Regni Dnd Caroli secundi nunc Regis Angl &c. vicesimo & vicesimo primo in Cur ipsius Dnd Regis coram ipso Rege (eadem Cur apud Westm in Com Midd tunc existen) p Judicium ejusdem Cur recuperasset versus infranominat Alexandrum Holt duas mille libras de debito necnon viginti & un solid p dampnis suis

Special Verdict.

The Jury found the Judgment in B.R. against the Prisoner at the Plaintiff's Suit.

suis que sustinuisset tam occasione detentionis debiti illius quam p misis & custagiis suis per ipsum circa sectam suam in ea parte apponit unde pfat Alexander Holt convict est put pdict Ellena interius narravit. Et Jur pdict ulterius super Sacramentum suum pdict dicunt quod postea scilicet die Lune primo post Crastinum Ascensionis Dni existend duodecimo die Maij Anno Regni dci Dni Regis nunc vicesimo quinto coram eodem Dno Rege apud Westm dci pdict Ellena in propria persona sua & pdict Alexander adtunc ptens ibidem in Cur pdict ad petitonem pdict Ellene per eandem Cur dci Dni Regis coram ipso Rege ibidem committebatur in custodia Mari Marescl Dni Regis in Execucone p debito & dampnis pdict ad sectam pdict Ellene ibidem remansit quousq; &c. put pdict Ellena interius similiter narravit & Jur pdict ulterius sup Sacramentum suum pdict dicunt quod infranominat Jeremias Whitchcott infrascript vicesimo octavo die Martij anno vicesimo quinto infrascript & diu ante apud London infrascript videlicet in Parochia Sci Bridgitte alias Brides in Warda de Farringdon extra infrascript seisit fuisset de & in Officio Gardiani Prisone Dni Regis de le Fleete Custod Prisone & Prisonar commiss & committend eidem Prisone ac de Capitali Messuagio vocat le Fleete cum ptin in Parochia & Warda pdict eidem Officio spectan & ptinend ut de Feodo & Jure put eadem Ellena interius similiter narravit Et Jur pdict ulterius sup Sacramentum suum pdict dic quod pdict Jeremias sic inde seisit existend ipse idem Jeremias postea scilicet eodem vicesimo octavo die Martij Anno vicesimo quinto supradicto apud London pdict in Parochia & Warda pdict per quandam Indenturam suam adtunc & ibidem factam inter pfat Jeremiam p nomen Jeremie Whitchcott de Hendon in Com Midd Baronet ex una parte & infranominat Willielmum Duckinfield p nomen Willielmi Duckinfield de Duckinfield in Com Cestr Armigeri ex altera parte concessit pfat Willielmo Duckinfield Officium & Messuagium pdict cum pertin habend & tenend pfat Willielmo Duckinfield Executoribus Administratoribus & Assign suis p & durand naturalibus vitis pdict Willielmi Duckinfield & quorundam Thome Ogden de Parochia Sci Michaelis Cornhill London Vinar Willielmi Outram Jun de Staple-Inn London Gen & Jacobi Gibbons de Interiori Templo London Gen & eorum diutius viven put eadem Ellena interius similiter narravit Et Jur ulterius super Sacramentum suum pdict dicunt quod pdict Willielmus Duckenfield virtute concessionis pdict postea scilicet infrascript sexto die Junij Anno vicesimo quinto infrascript in Messuagium pdicm cum pertin intravit & fuit seisit de Officio pdict cum pertin ut de libero tenemento p termino vitarum pdict Willielmi Duckenfield Thome Ogden Willielmi Outram & Jacobi Gibbons & eorum diutius viven put eadem Ellena interius similiter narravit Et Jur pdict ulterius super Sacramentum suum pdict dicunt quod postea scilicet decimo die Julij Anno vicesimo quinto infrascript pdict Alexander Holt virtute cujusdam Brevis dci Dni Regis de habend corpus cum causis extra Cur Cancellar dci Dni Regis (eadem Cur apud Westm in Com Midd pdict tunc existen) emanan Mari Marescl Cur Dni Regis coram ipso Rege sive ejus Deputat ibidem direct ductus fuit in eadem Cur Cancellar coram ipso Rege in Cancellar pdict apud Westm pdict sub custodia Marr pdict & p retorn ejusdem Brevis onerat fuit (inter alia) in Execucione ad sectam pdict Ellene Plummer p pdict duabus mille libris de debito & viginti & una solidis p dampnis quodq; pdict Alexander Holt p eandem Cur Cancellar adtunc & ibidem commiss fuit pdict Prisone dci Dni Regis de le Fleete (inter alia) in Execu-

That he was committed to the *Kings-Bench*.

That the Defendant was seized of the Office of Warden of the *Fleet*.

That he granted the Office to *Duckinfield* for three Lives.

They find the Prisoner turned over to the *Fleet*.

tione

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That *Duckinfield* suffered the Prisoner to escape.

That *Duckinfield* at the time of the Commitment of the Prisoner to the *Fleet*, and at the time of the Escape was not sufficient. *Note*, They say not, *That he was not sufficient at the time of the Action brought*, as they ought.

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That *Du ckinfield* gave Security to keep the Defendant harmless against all Escapes.

And gave Security for 1050 *l. per ann.* to the Defendant.

The doubt of the Jury, Whether the Superiour shall answer the Escape and pay the Debt ?

Venire de novo, & nul' Judgment.

Trin.

Trin. 36 Car. II. C. B. Rot. 362.

Evelyn *versus* Davys.

Vide *Levinz* Part III. fol. 206.

Action of Debt for Amerciaments in a Court-Leet. Ra. Entr. 533. a. Ibid. 533. b. Ibid. 109. b. Hob. 129. Americament not to a certain Sum.

Surr' ss. JOhannes Davys nup de Blechingly in Com pdict Husbandman sum fuit ad respondend Georgio Evelyn Armiger de placito quod reddat ei octoginta solidos quos ei debet & injuste detinet &c. Et unde idem Georgius per Johannem Spencer Attorn suum dic quod cum idem Georgius modo sit & per spacium quinq; annorum jam ult elaps fuisset seisit de & in Manerio de Lagham alias Walkhamsted cum ptin en Com pdict in Dominico suo ut de feodo Idemq; Georgius & oes ill quorum statum ipse modo habet de & in Manerio pdict cum ptin a tempore cujus contrarij memoria hominum non existit habuer & habere consuever quandam Cur Letam sive Vis Franc Pleg de omnibus Inhabitantibus & residen infra Letam pdict coram Senescallo suo Cur' illius annuatim tenend tanquam ad Manerium pdict cum ptin ptinen & spectan Cumq; infra Jurisdictionem Cur Lete pdict videlicet in quodm loco vocat Tylers Green juxta Regiam viam ibidem ducen a Villa de Godstone in Com pdict usque ad Villam de Croydon in eodem Com ipse pdict Johannes Davis vicesimo quinto die Martij Anno Regni Dni Regis nunc tricesimo quarto effossit diversa Argilleta (Anglice Clay-Pits) infra decem pedes Regie Vie pdict in pfunditate sexdecim pedes in latitudine quadraginta pedes & a Regia Via pdicta p ripas vel fensuras mie sepat & Argilleta ill sic effoss apere & absq; fensura sive separatione in Regia Via pdict p spacium trium trium septimanarum & amplius reliquit & continuavit ad manifestum periculum necnon ad coe nocumentum omnium ligeorum dci Dni Regis nunc ibidem transeun Et superinde pdict Georgio de Manerio pdict cum ptin sic ut pfertur seisit existen & pdict Argilleta sic apere jacen ad Cur Let sive Vis Franc Pleg pdict ipsius Georgij Manerij sui pdicti tent apud Manerium ill infra mensem post Festum Pasche scilicet die Martis decimo octavo die Aprilis Anno Regni Dni Regis nunc tricesimo quarto coram Johanne Glyd Armiger tunc Senescallo suo Cur Let sive Vis Franc Pleg pdict per Sacramentum Edwardi Stening Willielmi Sholcross Thome Wheeler Nichi Plaw Jeremie Bryant Thome Branne sen Georgij Branne Richardi Blackcombe Roberti Burchfield Johannis Stephens Georgij Humphreys Roberti Swapsland Thome Branne jun & Andree Martin tunc inhabitan & residen infra Vis Franc Pleg ill existen Jur onerat ad inquirend & psentand ea que ad dict Cur Let sive Vis Franc Pleg pertinen psentat fuit quod pdict Johannes Davys infra Jurisdiction Cur pdict vicesimo quinto die Martij tunc ult pteric & diversis alijs diebus & vicibus tam antea quam postea ante

Prescription for a Court-Leet.

Presentment by the Jury, That the Defendant digged Clay-Pits in the King's Highway, *&c.*

ante captionem illius Presentamenti vi & armis infra Jurisdiccon Cur' Lete pdict videlicet in pdict loco vocat Tylers Greene juxta altam viam Regiam ibidem ducen a Villa de Godstone in Com pdict usque Villam de Croydon in eodem Com ipse pdict Johannes Davys effodit diversa Argilleta (Anglice Clay-Pits) infra decem pedes Regie vie pdict in profunditate sexdecim pedes & latitudine quadraginta pedes & a via Regia pdict per Ripas sive sensuras mie seperat & Argilleta ill sic effoss apert & absque sensura sive separacone a Regia via pdict per spacium trium septimanarum & amplius reliquit & continuavit in manifestum periculum necnon ad commune nocumentum omnium Ligeorum dict Dnd Regis nunc ibidem transeun Ob quod pdict Johannes Davys in eadem Cur amerciat fuit quod quidem Americiamentum per oies Jur' pdict afferat fuit ad quadraginta solidos eidem Georgio Evelyn existen Dno Manerij pdict' solvend p quod acco accrevit eidem Georgio Evelyn ad exigend & habend de pfat Johanne Davys pdict quadragint solid parcell pdict' octoginta solidorum Cumq eciam pdict' Georgius Evelyn de Manerio pdict cum ptin sic ut pfertur seisit' existen & Argilletta pdict' sic apert & mie inclus sive separat' a Regia via pdicta remanen ad Cur' Let' sive Vis Franc Pleg ipsius Georgij Evelyn Manerij sui pd' tent' apud Manerium illum infra mensem post Festum Pasche scilicet die Martis decimo die Aprilis Anno Regni dict Dnd Regis nunc tricesimo quinto coram pfat' Johanne Glyd tunc Senescallo suo Cur' Let' sive Vis Franc Pleg pdict' p Sacramentum Thome Laby Johannis Huggett Johannis Finch Jeremie Briant Georgij Branne Thome Branne Johannis Browne Georgij Humphreys Johannis Stevens Roberti Burchfield Nicholai Plaw Jasperi Holmehood Johannis Burchfield Thome Rose & Willielmi Shalcross tunc inhabitan & residen infra Let' sive Vis Franc Pleg pdict' ill existen Jur' onerat' ad inquirend & psentand ea que ad dict' Cur' Let' sive Vis Franc Pleg ptinen psentat' fuit quod pdict Johannes Davys vicesimo nono die Septembris tunc ult' pterit' & diversis alijs diebus & vicibus tam antea quam postea ante capconem Presentamenti illius vi & armis fodit diversa Argilleta (Angl Clay-Pits) in quodam loco vocat' Tylers Greene infra Jurisdiccon Cur' illius juxta altam viam Regiam ibidem ducen a Villa de Godstone usque Villam de Croydon & pdict Argilleta (Anglice Clay-pits) non clausit (Anglice hath not fenced) ab & contra pdict altam viam Regiam sed eadem pmisit jacen vacua & aperta ad manifestum periculum necnon ad commune nocumentum omnium Ligeorum dict Dnd Regis nunc ibidem transeun ob quod pdict Johannes Davys in eadem Cur ult menconat americat fuit quod quidem Americiamentum p oies Jur pdict ult menconat afferat fuit ad quadraginta solid eidem Georgio Evelyn existen Domino Manerij pdict solvend p quod Accio accrevit eidem Georgio Evelyn ad exigend & habend de pfat Johanne Davys pdict quadraginta solidos ult menconat resid pdictorum octoginta solidorum pdict tamen Johannes Davys licet sepius requisit pdict octoginta solid eidem Georgio Evelyn nondum reddidit set illos ei hucusque reddere omnino contradixit & adhuc contradic Unde dicit quod deteriorat est Et dampnum habet ad valenciam viginti librarum. Et inde produc sectam &c.

Americiament.

Assecrment.

Et

Demurrer general to the Declaration.

Et p̄dict' Johannes Davys ven & defend vim & injur quando &c. Et dic quod p̄dict Georgius Evelyn Actionem suam p̄dictam inde versus eum habere non debet quia dic quod Narr p̄dict materiae in eadem content minus sufficien in lege existunt ad ipsum Georgium ad Actionem suam p̄dict inde versus eum habend manutenend ad quam quidem Narrationem modo & forma p̄dict fact idem Georgius necesse non habet nec per legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficien Narr in hac parte idem Johannes pet Judicium Et quod p̄dict Georgius ab Actione sua p̄dict inde versus eum habend p̄cludatur &c.

Joynder in Demurrer.

Et p̄dict Georgius ex quo ipse sufficien materiam in lege ad ipsum Georgium ad Actionem suam p̄dict versus p̄fat Johannem Davys habend manutenend superius narravit quam ipse parat est verificare quam quidem materiam p̄dict' Johannes Davys non dedicit nec ad eam aliqualit' respond set verificationem illam admittere omnio recusat pet' judicium & debm suum p̄dict' unacum dampnis suis occasione detentionis debiti illius sibi adjudicari &c. Et quia Justic hic se advisare volunt &c.

Judgment pro Defendant. Vide le Report.

Trin.

Trin. 32 Car. II. C. B. Rot. 1948, 1949.

Sanders *versus* Tooth.

Vide *Levinz* Part III. fol. 151.

Debt on Bond.

London' ss. ROBERTUS Tooth nup de Walden in Com Essex' Butcher alias dictus Robertus Tooth nup de Riegate in Com Surrey Butcher sum fuit ad respondend Thome Saunders de Brickhouse de plito quod reddat ei viginti & sex libras quas ei debet & injuste detinet &c. Et unde idem Thomas p Radm Drake Attorn sum dicunt quod cum pdict' Robertus quinto die Maij Anno Regni Dnī Regis nunc tricesimo primo apud London in Parochia Beate Marie de Arcubus in Warda de Cheape p quoddam scriptum sum Obligatorium concessisset se teneri pfat Thome Saunders in pdict' viginti & sex libris solvend eidem Thome Saunders cum inde requisit esset pdict' tamen Robertus licet sepius requisit pdict' viginti & sex libr eidem Thome Saunders nondum reddidit sed ill' ei hucusq; reddere omio contradixit & adhuc contradic unde dic quod deteriorat est & dampnum habet ad valenciam viginti librarum Et inde pduc sectam &c. Et pfert hic in Cur scriptum pdict' quod debitum pdict' testatur in forma pdict' cujus dat est die & anno supradictis &c.

Def' confesseth the Debt, and that his Lands and Tenements Goods and Chattels are liable to the same, except his wearing Apparel, Tools of his Trade, &c.

But that the Plt' ought not to have Execution against his Person;

And so pleads the Act for Relief of poor Prisoners, 30 & 31 *Car.* 2.

Et pdict Robertus p Petrum Mason Attorn sum ven & defend vim & injur quando &c. Et dic quod ipse non potest dedicere Accon pdict' Thome nec quin ipse debitum sum pdict' versus eum recuperare debeat de terris & tenementis bonis & catallis ipsius Roberti (ejus apparat (Angl wearing Apparel) & supellectil (Angl Furniture) p domo sua mansional dict supellectil non exceden decem libras in valore & instrument (Angl Tools) p illius manufactur (Angl Trade) & occupatione tantummodo except) Sed idem Robertus ulterius dic quod pd Thomas execucon inde versus psonam ipsius Roberti habere non debet quia dic quod p quendm Actum in Parliamento Dnī Regis nunc inchoat & tent apud Westm in Com Midd octavo die Maij Anno Regni dict Dnī Regis nunc decimo tertio ac p separal prorogacon & adjournament ibidem continuat usq; decimum quintum diem Julij Anno Regni dcd Dnī Regis nunc tricesimo edic & pvis (Et inter alia inactitat fuit Authoritate ejusdem Parliamenti quod oies person existen in Prisona sup pdict vicesimum nonum diem Maij Anno tricesimo supradicto p debito vel dampnis aut p aliquibus Accon vel Accionibus sive p mediu pcessum (Angl mean Process) p debito vel dampnis computo sive transgr sup Casum que quidem Accon p psecucon lege forint Judic & cepissent Sacram in eodem Actu direct & mensional forent & essent relaxat & exonerat de eorum Imprisonament in talibus via & modis qual ill qui forent in Prisona pro debito vel dampnis sup vel p quendam prior Actum in eodem Parliament in hujusmodi casu edic & pvis exonerat & relaxat fuissent seu forent Et ulterius inactitat fuit Authoritate ejusdem Parliamenti quod nul-

la persona vel persone exonerat a Prisona virtute ejusdem Actus ad aliquod tempus tunc postea forent imprisonat pro vel ratione debiti vel damnorum vel aliquarum Sume vel Summarum pecunie contract' sive debit vel recuperat per aliquas personam vel personas cui vel quibus talis Prisonarius dedisset noticiam sub manu & sigillo unius Justic Pacis dict Civit Com vel loci per spacium quadraginta dierum ante tempus illius exoneracionis intencionis sue recipere beneficium Actus predict' de via & cursu (Angl way and course) ille intendebat pro obtencione quodque sup aliquod Arrest' per talibus debito Suma & Summis pecunie ill retinerentur unius Attorn comparere per eis & affilare commune Ballium cuilibet tal Accion & Placitare ad ill Ita quod querens (si placuerit) possit recuperare & intrare Judicium versus tal Prisonar exequend & levand sup terras tenementa bona & catalla talis Prisonar sic exonerat ut supradictum est (ejus apparat (Angl wearing Apparel) & supellectil (Angl Furniture) pro domo sua mansionali dict' supellectil non excedend decem libras in valore ac Instrument (Angl Tools) pro illius manufactur (Angl Trade) & occupacione tantummodo except) sed non super psonam Prisonar persone talis Prisonar existend per eundem Actum imperpetuum exonerat de Imprisonament per aliquibus debit transgr sup Casum debit (Angl Duty) Summa vel Summis pecunie vel rebus ill referend (Angl relating) Contract vel debit ante tempus eorum exoneracionis qui habuisset talem noticiam (ut predict' est) put per eundem Actum (inter alia) plenius liquet & apparet Et idem Robertus in facto dic quod ipse idem Robertus dicto vicesimo nono die Maii Anno tricesimo supradicto fuit Prisonar dci Dni Regis in Prisona & sub custod Henrici Sturgis Cust' Prisone de White-Chappel pro Maner' de Stepney & Hackney in Prisona de White-Chappel in Com Midd predict' tunc & adhuc existend quodque ipse idem Robertus postea scilicet vicesimo septimo die Augusti Anno Regni dci Dni Regis nunc tricesimo primo apud White-Chappel predict' adtunc Prisonar existend in dca Prisona dci Dni Regis vend coram Johanne Underwood Ar infra unum Milliar Prison predict' eodem Johanne Underwood adtunc uno Justic dci Dni Regis ad Pacem in & pro eodem Com existend & prestitit Sacramentum suum in predict' priori Actu mencionat & postea scilicet eodem vicesimo septimo die Augusti Anno tricesimo primo supradicto apud White-Chappel predict' in Com Midd predict' idem Robertus dedit noticiam in scriptis prefat' Thome sub manu & sigillo predict' Johannis Underwood de ejus intencione recipere beneficium Actus predict' quodque supinde idem Robertus decimo octavo die Octobris Anno tricesimo primo supradicto ad General Quarterial Session Pacis dci Dni Regis tent' per Com Midd predict' apud Hicks Hall in eodem Com comparuit coram Richardo Downes & Georgio Almery & Sociis suis tunc Justic Pacis dci Dni Regis in & pro Com Midd predict' debito modo exonerand secundum formam & effectum Actus predict' quodque postea ad eandem General Quarterial Session Pacis tent' apud Hicks Hall in Com Midd predict' in & pro eodem Com scilicet eodem decimo octavo die Octobris Anno tricesimo primo supradicto coram predict' Ric Downes & Georg Almery Armigeris & al Sociis suis tunc Justic Pacis dci Dni Regis in & pro Com Midd predict' idem Robertus & Prisona predict' debito modo exonerat' & relaxat' fuit secundum formam & effectum Actus predict' & nichil aliud in Narr Accion predict Thome predict' Robertus dic set idem Robertus pet' Judicium si predict' Thomas Execucionem suam versus eum in hac parte preterquam sup terras tenementa bona & catalla ipsius Robti (ejus apparat' & supellectil per domo sua mansional dict' supellectil non excedend decem

Deft' avers he was a Prisoner at such a time.

That he made Oath before a Justice of Peace,

And gave notice to the Creditor Plt'.

That the Deft' appeared at the Quarter-Sessions,

And was discharged.

cem libras in valore ac instrument' pro illius manufactur & occupacione tantummodo except') sed non super personam ipsius Roberti levand & exequend habere debeat Et pfert hic in Cur idem Robertus quandam Duplicacon suam de ejus relaxacon & exonacon secundum formam & effectum Actus pdict' sub manibus & sigill pdict' Ric Downes & Georg Almery Justic Pacis dci Dni Regis p Com Midd pdict' existen que quidem Duplicatio sequitur in hec vba scilt.

Midd' ss. To *Henry Sturgis*, Keeper of *White-Chappel*-Prison for the Manor of *Stepney* and *Hackney* in the County of *Middlesex*.

WHereas *Robert Tooth* before or on the Three and twentieth day of *January* 1678. being in Prison in the Prison called *White Chappel*-Prison aforesaid under your Custody, and being then and ever since the Eighth day of *May* 1678. there charged by vertue of a Warrant retornable at *Westminster die Lunæ proximo post Quinden' Paschæ* to answer unto *Philip Beaumont* in a Plea of Trespass, and also the Bill of the said *Philip* against the said *Robert* for Thirty Pounds upon *Assumpsit*, did on or about the Twenty seventh day of *August* 1679. petition *John Underwood* Esq; then one of His Majesty's Justices of the Peace in the said County of *Middlesex*, to be discharged from the said Imprisonment; and thereupon the said Mr. *Underwood* afterwards, according to a late Act of Parliament made, and entituled, *An Act for the Relief and Release of poor distressed Prisoners for Debt*; and also according to another late Act of Parliament *for the further Relief and Discharge of poor distressed Prisoners for Debt*, by his Warrant under his Hand and Seal, bearing date on or about the Twenty seventh day of *August* 1679. to you the said *Henry Sturgis* directed, did cause the said *Robert Tooth*, together with a Certificate of the cause of his Imprisonment, to be brought before him at *White-Chappel* in the said County of *Middlesex*, being within the distance of one mile from the said Prison, immediately after the receipt of the said Warrant, when and where he the said *Robert Tooth* having remained in Prison by the space of six Months, and being in Prison on the Nine and twentieth day of *May* 1678. did voluntarily take the Oath for that purpose specified and appointed in and by the aforesaid Acts of Parliament before the aforesaid Mr. *Underwood*, the same being by him then and there administred, and the said Prisoner by him immediately remanded to the said Prison, whereof he afterwards, on the said Twenty seventh day of *August* 1679. gave a Certificate in writing under his Hand and Seal to the said *Robert Tooth*, to be served upon the said *Philip Beaumont*, according to the said first-recited Act of Parliament; and did likewise then and there give several Certificates in writing, under the Hand and Seal of the said *Robert Tooth*, to give notice to *Philip Beaumont* at his House in *Finch-lane* in *London*, Mr. *Edmund* with his Man at his House in *Surrey*, *Robert Bustall* with his Man at his House in *Surrey*, *Thomas* The Duplicate *in hæc verba.*

Woodman Senior at his House in *Riegate* with his Maid, *Thomas Woodman* Junior at *Riegate* with his Maid, *Allen Woodman* at his House in *Buckland* with his Wife, Mr. *Harlow* at *Riegate*, *Richard Hill* at his House in *Ley*, *John Humphrey* at his House in *Chalwood*, *Thomas Homden* at his House in *Chalwood*, *Thomas Saunder* of *Brick-house* in *Chalwood* with his Man, *Thomas Saunder* of *Horley* with his Maid, *Cobert Buster* at *Chalwood* with his Man, *William Buster* at his House in *Horley* with his Maid, *Benjamin Buster* at his House in *Chalwood*, *Thomas VVood* with his Wife at his House in *Horsley*, *James Matthew* with his Mother at his House in *Ley*, *Henry Mills* at his House in *Nutgate*, *Thomas Lynden* at his House in *Nutgate*, *Robert Marden* at his House in *Nutgate*, *Anthony Sheppard* at his House in *Riegate*, *Ambrose Packer* with his Man at his House in *Riegate*, *Richard Jewell* with his Wife in *Nutfield*, *George Blundell* with his Man at *Blechingly*, *Thomas VVheeler* at his House at *Godstone*, *VVilliam Burgess* at *Godstone*, *Thomas Hills* at *Riegate*, *John Lucas* with his Maid at *Riegate*, *Thomas Tayler* at his House in *Riegate*, *John Steare* of *Riegate*, *Anthony VVilliams* at his House in *Charles Browne* at his House in *Riegate*, and *Thomas* at his House in *Blechingly*, Creditors of the said *Robert Tooth*, according to the said latter Act of Parliament, thereby appointing as well the said *Robert Tooth* as the said several and respective Creditors above-named, to appear before the Justices of the Peace at the then next General Quarter-Sessions of the Peace to be holden for the said County of *Middlesex*, in order to his Discharge. NOW, forasmuch as it fully appeared unto us whose Hands and Seals are hereunto set, and others the Justices of the Peace assembled at this General Quarter-Sessions of the Peace holden for the said County of *Middlesex*, upon the Oath of *John Jacobs* of *Sheere* in the County of *Surrey* Yeoman, that he duly served the respective Creditors above-named with the said Certificates, according to the several Acts before-mentioned; and for that a publick Proclamation hath been made at this said General Quarter-Sessions in open Court, That if any of the said Creditors of the said *Robert Tooth* could shew cause why the said *Robert Tooth* should not be discharged of his said Imprisonment, they should come forth, and they should be heard; and they, or any of them, or any person for them, or in their or any of their behalfs, having now made no discovery of any Estate of the said *Robert Tooth*, nor appeared to disprove the said Oath of the said *Robert Tooth*, nor insisted to have him continued in Gaol, nor having shewed any cause why the said *Robert Tooth* should not be discharged of the said Imprisonment; and the said *Robert Tooth* being a natural Leige-Subject born in *England*, and no Alien or Foreigner, and having now here declared upon his corporal Oath what Effects are belonging to him, and what Debt or Debts are now owing to him, according to the said latter Act; and as well we whose Hands and Seals are hereunto set, and others His said Majesty's Justices assembled at the said General Quarter-Sessions, being satisfied in the premisses:

These

These are therefore, according to, and in pursuance of the said general Acts of Parliament, in His Majesty's Name to will and require you forthwith upon sight hereof to set at liberty and to discharge the said *Robert Tooth* from his said Imprisonment, if imprisoned for the Cause aforesaid and no other, without paying any thing for Fee or Chamber-Rent; for which your so doing this shall be your sufficient Discharge. Given under our Hands and Seals in the said General Quarter-Sessions of the Peace at *Hicks-hall* in St. *Johns-street*, in and for the said County of *Middlesex*, this Eighteenth day of *October* 1679. in the Thirty first year of the Reign of our Sovereign Lord King *Charles* the Second.

Cum hoc qd idem Robertus verificare vult quod pdict Robertus in Duplicacon pdict mencionat & pdict Robertus in modo def sunt una & eadem persona & non alia neq; diversa quodq; pdict Thomas Saunders modo querens Et pdict Thomas Saunders de Brickhouse in Chalwood in Duplicacon pdict superius scilicet nōiat sunt una eademq; psona & non alia neq; diversa. — Averment of Identities.

Et pd Thomas Saunders dic quod plitm pd p pd Robertum Tooth superius plitat materiaq; in eodem content minus sufficien in lege existunt ad ipm Thomam ab Execucon recuperacon pd versus psonam ipsius Roberti Tooth hend pcludend quodq; ipse ad plitum illud modo & forma pdict plitat necesse non het nec p legem terre tenetur aliquo modo respondere Et hoc parat est verificare unde p defcu sufficien pliti in hac parte idem Thomas Saunders pet Judicm & Execucon suam recupacon pdict vsus psonam pdict Robti Tooth (ad libitum ipsius Thome fiend) sibi adjudicari &c. — Plt' demurs to the Defendants Plea generally.

Et pdict Robertus ex quo ipse sufficien materiam in lege ad ipm Thomam ab Execucon recuperacon pdict versus psonam ipsius Robti hend pcludend supius plitando allegavit quam ipse parat est verificare quam quidm materiam pdict Thomas non dedic nec ad eam aliqualit respond sed verificationem ill admittere omino recusavit ut prius pet Judiciu & quod idem Thomas ab Execucone sua recupacon pdict versus psonam pdict Roberti Tooth ad libitum ipsius Thome Saunders fiend hend pcludatur &c. Et quia Justic hic se advisare volunt &c. — Deft' joyns in Demurrer.

Plea amended. Vide le Report.

Mich.

Mich. 36 Car. II. C. B. Rot. 457.

Heath versus Vermuydon.

Vide *Levinz* Part III. fol. 146.

Action of Debt for Rent upon a Lease for years. Litt. Sect. 58.

London' ss. CORnelius Vermuydon nup de Paroch Sce Margaret Westm in Com Midd Armiger alias Cornelius Vermuydon of Grays-Inne in the County of Middlesex Esq; sum fuit ad respond Johanni Heath Mil & Roberto Heath Armiger de plito quod reddat eis trescent & sexagint libr quas eis debet & injuste detinet &c. Et unde ijdem Johannes & Robertus p Henricum Streatfield Attorn sum dic quod p quandm Indentur factm apud London in Parochia Be Marie de Arcubus in Warda de Cheape vicesimo secundo die Julij Anno Regni Dni Regis nunc vicesimo sexto inter eosdem Johannem & Robertum & quendam Franciscum Heath Legum Doctorem jam defunct quem pdict Johannes & Robertus supvixer p nõia Johannis Heath de Brasted in Com Kanc Mil Dni Regis Attorn General Ducat & Com Palentini Lancastr Roberti Heath de Seavenoake in Com Kanc Armiger & Francisci Heath de Brasted pdict Doctoris Civilis Legis ex una parte Et pdict Cornelium Vermuydon p nomen Cornelij Vermuydon de Grays-Inn in Com Midd Armig ex altera parte cujus alteram partem sigillo pdict Cornelij signat ijdem Johannes & Robertus hic in Cur pfer cujus dat est eisdem die & anno recitatm cum pdict Johannes Heath Robertus & Franciscus legalit & juste habuissent interesse (Angl were lawfully and rightfully interested) de & in tertia parte omnium & singulorum Plumbearum Minearum Fodinarum (Angl Groves) Metarum (Angl Mears of Ground) Tractam (Angl Rakes) Molybdinarum (Angl Veins) Ure Plumbee (Angl Lead-Ore) & partium Metarum (Angl Mears) videlt le Geene Pit le Forefield le Neather Dovenest Anthony Woodgroove le Upper Dovenest le Lum Groove Presses Groove le Groove Johannis Fearne Jonas Groove Bonsal-gate Groove le Meane Groove le Maidens Groove Buntings Groove Fitzley Groove Nications Groove le Groove Magistri Allsop Stony Groove le Groove Antonij Gretrax le Groove Magistri Fearne le Groove Richardi Wingfield le West Richardi Wingfield Raventor Groove Three Greaves Nooke Groove le Three Groove Antonij Fearne septem Fodinarum sive Metarum terre jacen insimul in le Dove-gang Rake in Milken-bottom existen Occidental fine pdict limit (Angl Rake) & Dakens Groove Ac separal al tractuum & Metarum terre adinde spectan pdict Johannes Heath Robertus Heath & Franciscus Heath p & in Cons reddit convencon & agreament extunc imposterm in Indentura pdict reservat & menconat ex parte & vice pdict Cornelij Vermuydon Exec & Adm suorum solvend & pformand dimisissent concessissent & ad firmam tradidissent & p Indentur pdcam dimiser' concesser' & ad firmam tradider dicto Cornelio Vermuydon Exec Admin & Assign suis tot & singulas pdict Minerias (Angl Mines) Fodinas (Angl Grooves) Metas

tas

tas terre (Angl Meers of Ground) Trace (Angl Rakes) & Venas Plumbi Mineral ipsorum pdictorum Joh Heath Rob Heath & Franc Heath & alicujus eorum jacen & existen in quadam parte sive parcell terre coit vocat le Dove gang Plott infra Socam & Wapentagium de Wirkesworth in Com Derb & tot statum jus titulum interesse exit pficua advantagia clam & demand quecunq; pdictorum Johis Heath Robti Heath & Franc Heath aut alicujus eorum de in & ad dcas Minerias & pmissa vel ratione inde & quamlibet partem & parcellam inde simul cum suis & cujuslibet suorum ptin habend & tenend omnem & singulam dictam tertiam partem pdict Minerarum Fodinarum (Angl Grooves) limitum terre (Angl Mears of Ground) Trace (Angl Rakes) & Venarum Plumbi Mineral (Angl Veins of Lead Ore) & omnia al pmissa pdict cum suis & cujuslibet suorum ptin pdicto Cornelio Vermuyden Executoribus Administratoribus & Assign suis a Festo Scti Johannis Baptiste communit vocat Midsummer-day tunc ult pterit ante dat Indentur pdict & durant & ad plenum finem & terminum undecim annorum extunc prim sequen & plenar complend & finiend reddend & solvend inde annuatim durant dicto termino pfat Johi Heath Robto Heath & Franc Heath Hered Exec Adm & Assign suis reddit vel Summam octogint librarum legalis monete Angl ad duos Festos sive terminos in Anno videlt ad Festum Natalis Dni & ad Festum Scti Johannis Baptiste per equas & equales porcones ad vel in Comuni Aula ad prandend Interioris Templi London put p Indentur pdcam inter al plenius apparet virtute cujus quidm dimissionis pdict Cornelius postea scill pdicto vicesimo secundo die Julij Anno Regni dci Dni Regis nunc vicesimo sexto supradicto in tenta pdict cum ptin intravit & fuit & adhuc est inde possessionat pdictoq; Cornelio sic inde possessionat existen pdict trescent & sexagint libr de redditu pdicto p quatuor annis & dimid unius anni finit Natalis Dni ult pterit eisdem Johanni & Roberto aretro fuer & adhuc existunt insolut p quod Acco accrevit eisdem Johanni & Roberto ad exigend & habend de pdicto Cornelio pdictas trescent & sexagint libras pdict tamen Cornelius licet sepius requisit easdem trescent' & sexagint libras aut aliquem inde denar eisdem Johanni & Roberto seu pfat Francisco in vita ejusdem Francisci nondum reddidit sed ill eis hucusq; reddere contradixit & eisdem Johanni & Roberto adhuc reddere contradic unde dic quod deteriorat sunt & dampnum habent ad valenciam triginta librarum Et inde pduc sectam &c.

Et pdict Cornelius p B. H. Attorn suum ven & defend vim & injur' quando &c. Et pet auditum Indentur' pdict Et ei legitur in hec verba:

A recital that the Lessors are lawfully interested, &c. (Recital no Estoppel.)

Oyer of the Indenture.

THis Indenture, made this Twenty second day of *July*, in the the Twenty sixth year of the Reign of our most Gracious Sovereign Lord *Charles* the Second, by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* *Annoq; Domini* 1674. between Sir *John Heath* of *Brasted* in the County of *Kent*, Knight, His Majesty's Attorney-General of the Dutchy and County-Palatine of *Lancaster*, *Robert Heath* of *Seavenoak* in the said County of *Kent*, Esq; and *Francis Heath* of *Brasted* aforesaid, Doctor of the Civil Law, of the one part; and *Cornelius*

lius Vermuydon of *Grays-Inn* in the County of *Middlesex*, Esq; of the other part. Whereas they the said *John Heath*, *Robert Heath* and *Francis Heath* are lawfully and rightfully interessed of and in a third part of all and singular the Lead-Mines, Grooves, Meers of Ground, Rakes, Veins of Lead-Ore, and part of Meers (that is to say) the *Green Pit*, the *Forefield*, the *Neather Dovenest*, *Anthony Wood's Groove*, the *Upper Dovenest*, the *Lum Groove*, *Bess's Groove*, *John Fearne* his *Groove*, *Jonas Groove*, *Bonsell-gate Groove*, the *Mean Groove*, the *Maidens Groove*, *Bunting's Groove*, *Fitzley Groove*, *Nication's Grooves*, Mr. *Alsop's Grooves*, *Stoney Groove*, *Anthony Gretrax Groove*, Mr. *Fearne* his *Groove*, *Richard Wingfield's Groove*, *Richard VVingfield* his *VVest Groove*, *Raventor Groove*, *Three Greaves Nook Groove*, *Anthony Fearne* his three Grooves, Seven Grooves or Mears of Ground lying together in the *Dove-gang Rake*, or *Milker Bottom*, being the West-end of the said Rake, and *Daken's Groove*, and several other Rakes and Mears of Ground thereunto belonging. Now this Indenture witnesseth, That they the said Sir *John Heath*, *Robert Heath* and *Francis Heath*, for and in consideration of the Rent, Covenants and Agreements hereafter in these Presents reserved and mentioned on the part and behalf of the said *Cornelius Vermuydon*, his Executors and Administrators, to be paid and performed, have granted, demised and to farm letten, and by these presents do demise, grant, and to farm lett, unto the said *Cornelius Vermuydon*, his Executors, Administrators and Assigns, all and singular the aforesaid Mines, Grooves, Meers of Ground, Rakes, and Veins of Lead-Ore, and all other the Lead-Mines, Mears of Ground, Grooves, Rakes, and Veins of Lead-Ore, of them the said Sir *John Heath*, *Robert Heath* and *Francis Heath*, or any of them, lying and being in a certain part or parcel of ground commonly called *the Dove-gang Plott* within the Soake and Wapentake of *VVirksworth* in the County of *Derby*, and all the Estate, Right, Title, Interest, Issues, Profits, Advantages, Claims and Demands whatsoever, of them the said Sir *John Heath*, *Robert Heath* and *Francis Heath*, or any of them, of, in, or to the said Mines and Premisses, or by reason thereof, and every part and parcel thereof, together with their and every of their Appurtenances, To have and to hold all and singular the said third part of the said Mines, Grooves, Meers of Ground, Rakes, and Veins of Lead-Ore, and all other the premisses aforesaid, with their and every of their Appurtenances, unto the said *Cornelius Vermuydon*, his Executors, Administrators and Assigns, from the Feast-day of St. *John Baptist*, commonly called *Midsummer-day*, last past before the date hereof, for and during, and unto the full end and term of Eleven years from thence next ensuing and fully to be complete and ended; yielding and paying therefore yearly during the said term unto the said Sir *John Heath*, *Robert Heath*, and *Francis Heath*, their Heirs, Executors, Administrators and Assigns, the Sum of Fourscore Pounds of lawful Money of *England*, at

A recital that the Lessors are lawfully interessed, &c. (Recital no Estopple.)

Habendum for eleven years.

at two Feasts or Terms in the year (that is to say) at the Feast of the Nativity of our Lord and Saviour, and the Feast of St. *John Baptist*, by even and equal portions, at and in the common Dining-hall of the *Inner-Temple, London*. Provided always, That if it shall happen that the said yearly Rent or Sum of Fourscore Pounds shall be behind or unpaid for the space of forty days after either of the said Feasts on which the same ought to be paid, that then it shall be lawful to and for the said Sir *John Heath*, *Robert Heath* and *Francis Heath*, their Heirs and Assigns, or any of them, into all and singular the said demised Premisses, and every part and parcel thereof, wholly to re-enter, and the same to have again, repossess and enjoy as in their former Estate, any thing in these presents contained to the contrary in any wise notwithstanding. And the said *Cornelius Vermuydon*, for himself, his Executors and Administrators, doth covenant, promise and grant, to and with the said Sir *John Heath*, *Robert Heath* and *Francis Heath*, their Heirs, Executors, Administrators and Assigns, by these Presents, That the said *Cornelius Vermuydon*, his Executors and Administrators, shall and will, during the said term of Eleven years, well and truly pay or cause to be paid unto the said Sir *John Heath*, *Robert Heath* and *Francis Heath*, their Heirs, Executors, Administrators and Assigns, the said yearly Rent or Sum of Fourscore Pounds at such days and times and place, and in such manner as in and by these presents is limited and appointed for payment of the same. And the said Sir *John Heath*, for himself, his Heirs, Executors and Administrators, doth covenant, promise and grant, to and with the said *Cornelius Vermuydon*, his Heirs, Executors, Administrators and Assigns, by these presents, That he the said *Cornelius Vermuydon*, his Executors, Administrators and Assigns, and every of them, for, by and under the payment of the yearly Rent or Sum above in and by these presents reserved, or mentioned to be reserved, and under the Covenants, Grants, Articles and Agreements in these presents contained, shall and may, for and during the said term of Eleven years, peaceably and quietly have, hold, use, occupy, possess and enjoy the said third part of the said Mines Grooves, Meers of Ground, Rakes and Veins of Lead-Ore, and all other the premisses hereby demised, or meant or intended to be hereby demised, and every part or parcel thereof, with their and every of their Appurtenances, without the lawful lett, suit, trouble, denial, interruption or eviction of the said Sir *John Heath*, his Heirs or Assigns, or any of them, or by his, their or any of their means, consent, privity or procurement, or any other person or persons whatsoever claiming, or which shall lawfully claim by, from or under him, them or any of them, or by, from or under Sir *Edward Heath* Knight of the *Bath*, his elder Brother. And the said *Robert Heath* and *Francis Heath*, for themselves severally, and for their several and respective Heirs, Executors and Administrators, do and doth covenant, promise and grant, to and with the said *Cornelius Vermuydon*, his Executors, Administrators and Assigns, for, by and under the yearly Rent or Sum hereby reserved, and under the

Proviso to re-enter for non-payment of Rent.

Covenant to pay the Rent.

Lessors covenant for quiet enjoyment, &c. severally.

Covenants, Grants, Articles and Agreements herein contained, ſhall and may, for and during the ſaid term of Eleven years, peaceably and quietly, have, hold, uſe, occupy, poſſeſs and enjoy the ſaid third part of the ſaid Mines, Grooves, Mears of Ground, Rakes and Veins of Lead-Ore hereby demiſed, or intended to be hereby demiſed, and every part and parcel thereof, with their and every of their Appurtenances, without the lawful lett, ſuit, trouble, interruption or eviction of the ſaid *Robert Heath* and *Francis Heath*, or either of them, their or either of their Heirs, Executors or Adminiſtrators, or by their or either of their means, conſent, privity or procurement, or by, from or under *George Heath* their Brother. PROVIDED always, and it is agreed by and between all the Parties to theſe preſents, and the true intent and meaning of them and of theſe preſents is, That it ſhall and may be lawful to and for the ſaid *Cornelius Vermuydon*, his Executors, Adminiſtrators or Aſſigns to quit and leave the Poſſeſſion of the ſaid premiſſes hereby demiſed at any time after the firſt Five years of the ſaid term of Eleven years ſhall be complete and ended, upon ſix months notice or warning given or left in writing to ſuch purpoſe or effect to or with the ſaid Sir *John Heath*, *Robert Heath*, or *Francis Heath*, or any of them, or to or with any of their Heirs, Executors or Adminiſtrators; And he or they, after the leaving or quitting the Poſſeſſion thereof, to be freed and diſcharged of the Payment of the Rent, and every part thereof, herein reſerved to be payable by the ſaid *Cornelius Vermuydon*, his Executors, Adminiſtrators and Aſſigns; and alſo this preſent Demiſe from thenceforth to ceaſe, determine and be void, any thing in theſe preſents to the contrary in any wiſe notwithſtanding. In witneſs whereof, the Parties to theſe preſents have interchangeably ſet to their Hands and Seals the Day and Year, &c.

Proviſo, That the Leſſee may quit the poſſeſſion after five years, upon ſix months warning.

And upon quitting the poſſeſſion, to be diſcharged of the Rent.

Deſt' pleads, That the Leſſors had not a lawful Right or Intereſt.

Quib; lc̄is & auditis idem Cornelius dic quod p̄d Johes & Robtus accōnem ſuam p̄d verſus eum hēre non debent quia dic quod p̄d Johes & Robtus & p̄d Francus Heath jam defunct in vita ipſius Franci ſeu eor̄ alt̄ tempore Indenture p̄d fieri ſuppōit ſeu unquam poſtea huit legale jus ſive intereſſe de vel in tertia parte omnium & ſingulor̄ Plumbear̄ Minerear̄ Fodinar̄ Metar̄ tractuū Molybdinar̄ Ure Plumbee & partium Metar̄ p̄dcar̄ ſeu alicujus inde parcell̄ jacen̄ & exiſten̄ in p̄d parte ſive parcell̄ terre vocat̄ le Dove-gang Plott infra Socam & Wapentagiū de Wirkeſworth in Com̄ Derb p̄d unde ſupponitur dimiſſionem p̄dcam̄ fieri put p Part̄ & Indentur̄ p̄d ſupius ſupponitur Et hoc parat̄ eſt verificare unde pet̄ Judicium ſi p̄d Johes & Robtus accōnem ſuam p̄d v̄ſus eum hēre debeant &c.

Demurrer.

Et p̄d Johes & Robtus dic qd p̄d plitm̄ p̄d Cornelij ſupius in barram plitat̄ & materia in eodem content̄ minus ſufficien̄ in lege exiſtunt ad ipſos Johem & Robtum ab accōne ſua p̄d v̄ſus ipſum Cornelium hend̄ p̄cludend̄ quodq; ipſi ad plitum illud modo & forma p̄d plitat̄ neceſſe non hent nec p legem terre tenentur reſpondere Et hoc parat̄ ſunt v̄ificare unde p defectu ſufficien̄ reſpons̄ in hac parte ijdem Johes & Robtus pet̄ Judicium & debm ſuū p̄dcm̄ unacū dampnis ſuis occone detencōn debi illius ſibi adjudicari &c.

Et

Et p̄dict Cornelius ex quo ipse sufficien̄ materiam in lege ad p̄dict Johannem & Robertum ab Actione sua p̄dc̄ versus eum habend p̄cludend supius allegavit quam ipse parat est verificare quam quidem materiam iidem Johannes & Robertus non dedic nec ad eam aliqualit respond sed verificationem illam admittere oīo recusant ut prius per Judicium Et quod p̄dict Johannes & Robertus ab Actione sua p̄dc̄ habend p̄cludantur &c. Et quia Justic hic se advisare volunt &c. Joynder in Demurrer.

Judgment pro Quer'. Vide le Report.

Dower.

Mich. 5 W. & M. C. B. Rot. 445.

Gerard Vid' *versus* Dominum Gerard.

Vide *Levinz* Part III. fol. 401.

1 Inst. 31. b. Britt. 247. b. Bract. 93. Glanv. 96. Dower of *Bromley-Hall.*

Staff' ss. ELiz' Gerard Vidua que fuit Uxor Digby Domini Gerard Baronis de Gerards Bromley p Isaacum Hawkins Attorn suum pet versus Carolum Dominum Gerard Baronem de Gerards Bromley tertiam partem unius Capitalis Messuagij vocat Bromley-Hall cum ptin in Ridge Padmore Ashley Parochijs de Eccleshal & Audley & Hundred de Pynehill cum ptin & centum & unius solidat reddit in eodem Hundred ut dotem ipsius Elizab ex dotacone p̄dict Digby quondam viri sui &c. Et sciend est quod p̄dca Elizab in Cur Dnī Regis & Dne Regine hic fec demandam suam in isto Brī de tertia parte trium aliorum Messuagiorum unius Columbarij quatuor Horreorum quatuor Gardinorum quatuor Pomariorum & quadringent & sex Acrarum terre cum ptin Et p̄dca Elizabetha modo abbreviat demandam suam usque ad p̄dcam tertiam partem p̄dci Capitalis Messuagij Hundred & reddit cum ptin &c.

Abridgment of the Demand.

Et p̄dcus Carolus Dominus Gerard p Georgium Wheeler Attorn suum ven & quoad p̄dict Capital Messuagium vocat Bromley-Hall cum ptin parcell teñtorum p̄dictorum cum ptin in demanda p̄dict superius specificat dic quod p̄dcā Elizab Gerard dotem suam de Capitali Messuagio p̄dict cum ptin ex dotacone p̄dci Digby Domini Gerard quondam viri sui habere non debet quia dic quod p̄dict Capital Messuagium in demanda p̄dict mencionat nominatur & nuncupatur & die impetracionis p̄dict Brīs Originalis ipsius Elizab nec non a tempore cujus contrarij memoria hominum non existit nominat & nuncupat fuit tam p nomen de Gerards Bromley quam p nomen de Bromley-Hall Quodq diu ante diem impetracionis p̄dci Brevis Originalis p̄fat Elizab scilicet vicesimo die Julij Anno Regni Dnī Jacobi primo nup Regis Anglie primo quidam Thomas Gerard Mil fuit seisit de p̄dco Capitali Messuagio cum ptin inter alia in-

Defendant pleads *dotem non.*

in dominico suo ut de feodo Et sic inde seisit existen dictus nuper Rex Jacobus primus p quasdam Literas Patentes sub Magno Sigillo suo Anglie sigillat geren dat apud Westm in Com Midd vicesimo primo die Julij anno primo supradicto Quarum exemplificacon sub Magno Sigillo Anglie sigillat geren dat apud Westm primo die Aprilis Anno Regni Dni Regis & Dne Regine nunc primo Idem Carolus Dominus Gerard hic in Cur pfert pdict Thomam Gerard ad Statum Gradum Dignitatem & Honorem Baronis Gerard de Gerards Bromley pdict in pdict Com Stafford erexit pfec & creavit ipsumq; Thomam Gerard Baronem Gerard de Gerards Bromley pdict pfecit constituit & creavit eidemq; Thome Nomen Stilum Dignitatem & Titulum Baronis Gerard de Gerards Bromley p easdem Literas Paten imposuit & dedit habend & tenend pfat Thome Gerard & Hered suis masculis de corpore suo exeun imperpetuum dictusq; nup Rex p easdem Literas suas Patentes ulterius concessit eidem Thome Gerard quod ipsi & Hered sui masculi haberent tenerent & possiderent & eorum quilibet haberet teneret & possideret sedem & locum & vocem in Parliamento & publicis Comitijs atque Consilijs dci nup Regis Heredum & Successorum suorum infra Regnum suum Anglie inter alia Baron ut Barones Parliamenti & publicorum Comitiorum & Consiliorum put per easdem Literas Patentes inter alia plenius apparet virtute quarum quidem Literarum Paten pdcus Thomas Gerard de Statu Gradu Dignitate & Honore Baronis Gerrard de Gerards Bromley pdict fuit seisit ut de feodo talliato ac Baro hujus Regni Anglie extitit videlicet sibi & heredibus suis masclis de corpore suo exeun ac in eodem Capitali Messuagio de Gerards Bromley vocat Bromley-Hall fuit comoran & residen cum familia servien & attenden suis Et pdcm Capitale Messuagium cum ptin caput Baronie ipsius Thome Dni Gerard Baronis Gerard de Gerards Bromley deven ac caput Baronie ill fuit & continuavit & adhuc continuat ac existit Et idem Carolus Dominus Gerard ulterius dic quod pdict Thoma Domino Gerard Baron Gerard de Gerards Bromley pdict de pdict Baronia & pdicto Capitali Messuagio cum ptin Capite Baronie sue pdict sic seisit existen idem Thomas Dominus Gerard Baro Gerard de Gerards Bromley postea apud Gerards Bromley pdict obijt de tali statu suo inde seisit post cujus mortem pdict Baronie & Capital Messuag caput Baronie pdict cum ptin descendebat Gilberto Domino Gerard ut filio & heredi pdict Thome Domini Gerard p quod idem Gilbertus Dominus Gerard in pdict Capital Messuagium cum ptin intravit & fuit inde seisit in dominico suo ut de feodo ac de Baronia & Honore pdict ut de feodo talliato & jure ac in eodem Capitali Messuagio fuit comoran & residen & sic inde seisit existen idem Gilbertus Domin Gerard obijt de tali statu suo inde seisit post cujus mortem pdict Baronia & Capitale Messuagium caput Baronie pdict cum ptin descendebat Dutton Domino Gerard ut filio & heredi pdicti Gilberti Domini Gerard p quod idem Dutton Dominus Gerard in pdict Capitale Messuagium cum ptin intravit & fuit inde seisit in dominico suo ut de feodo ac de Baronia & Honore pdict ut de feodo talliato & jure ac in eodem Capitali Messuagio fuit comoran & residen Et sic inde seisit existen idem Dutton Dominus Gerard obijt de tali statu suo inde seisit post cujus mortem pdicta Baronia & Capital Messuagium caput Baronie pdict cum ptin descendebat Carolo Domino Gerard ut filio & heredi pdci Dutton Dni Gerard per quod idem Carolus Dominus Gerard in pdict Capital Messuagium

Pleads the Creation of *Thomas Gerard*, made a Baron by Letters Patents of K. *Jac.* 1. in Tail.

And that he and other the Lords descendants lived at *Bromley-hall*, which was *Caput Baronie*.

Descent to *Gilbert* Lord *Gerard*.

Then to *Dutton* Lord *Gerard*.

Then to *Charles* Lord *Gerard*.

agium cum ptin intrabit & fuit inde seisit in dominico suo ut de feodo ac de Baronia & Honore pdict ut de feodo talliato & jure ac eodem Capital Messuagio fuit commorant & resident Et sic inde seisit existen Idem Carolus Dominus Gerard postea scilicet vicesimo quinta die Novembris Anno Regni Dni Caroli secundi nuper Regis Anglie &c. duodecimo apud Gerards Bromley pdict p quandam Indenturam suam inter ipsum Carolum Dominum Gerard ex una parte & quosdam Carolum Fane Armig communit vocat Dominum le Dispencer Edwardum Rockingham Kildare Dominum Digby de Geshall in Hibernia & Anthonium Cope Baronett per nomina Caroli communit vocat Dominum le Dispencer filij natu maximi & hered apparen pnobilis Mildmay Comitis Westmorland Edwardi Domini Rockingham de Caford de Rockingham in Com Northampton Kildare Dni Digby de Geshall in Regno Hibernie & Antonij Cope de Hanwall in Com Oxon Baronett ex altera parte fact & in consideratione cujusdam pecunie summe eidem Carolo Domino Gerard p pfat Carolum Dominum le Dispencer Edwardum Dominum Rockingham Kildare Dominum Digby & Anthonium Cope in manibus solut barganizabit & vendidit pfat Carolo Domino le Dispencer Edwardo Domino Rockingham Kildare Domino Digby & Antonio Cope pdict Capital Messuagium cum ptin (inter alia) habend & tenend eisdem Carolo Domino le Dispencer Edwardo Domino Rockingham Kildare Domino Digby & Antonio Cope Executoribus Administratoribus & Assign suis a die primo ante dat ejusdem Indenture p & duran & ad plenum finem & terminum sex mensium extunc primo sequen & plenarie complend & finiend Virtute cujus quidem barganie & venditionis necnon vigore cujusdam Actus in Parliamento Dni Henr nuper Regis Anglie octavi apud Westm in Com Midd quarto die Februarij Anno Regni sui vicesimo septimo de usibus in possession transferend tent edit & pvis ijdem Carolus Dominus le Dispencer Edwardus Dominus Rockingham Kildare Dominus Digby & Antonius Cope fuer de pdict Capital Messuagio cum ptin possessionat Et sic inde possessionat existen pdictoq; Carolo Domino Gerard de reversione inde in dominico suo ut de feodo seisit existen Idem Carolus Dominus Gerard postea scilicet vicesimo nono die Novembris Anno duodecimo supdicto apud Gerards Bromley pdict per quandam Indenturam quadripartit inter ipsum Carolum Dominum Gerard p nomen pnobilis Caroli Dni Gerard de Gerards Bromley in Com Stafford ex prima parte quendam Georgium Digby Armiger & Janam Digby Spinster per nomina Georgij Digby de Sandon in Com Stafford Armiger & Jane Digby sole filie & unice puelle pdict Georgij Digby ex secunda parte pdict Carolum Fane vocat Dominum le Dispencer Edwardum Dominum Rockingham Kildare Dominum Digby de Geshall in Ireland & Antonium Cope ex tertia parte Et quosdam Edwardum Littleton Baronett Walterum Chetwind jun Armiger Thomam Kinnersley Armiger & Willielmum Chetwind Armiger p nomina Edwardi Littleton de Pelleton-Hall in Com Stafford Baronetti Walteri Chetwind jun de Ingestrey in dicto Com Stafford Armiger & Willielmi Chetwind de Ridgley in dicto Com Stafford Armiger ex quarta parte fact concessit pfat Carolo Domino le Dispencer Edwardo Domino Rockingham Kildare Domino Digby & Antonio Cope Heredibus & Assign suis reversionem pdicti Capitalis Messuagij cum ptin habend & tenend eisdem Carolo Domino le Dispencer Edwardo Domino Rockingham Kildare Domino Digby & Antonio Cope Hered & Assign suis

Who made a Marriage-Settlement by Lease and Release.

suis ad opus & usum p̄dicti Caroli Domini Gerard & Hered suorum usq; tempus solempnizacon̄ tunc intens Maritagij inter p̄dict Carolum Dominum Gerard & p̄dict Janam Digby & ab & post solempnizacon̄ tunc intens Maritagij tunc ad opus & usum p̄dict Caroli Domini Gerard p & durant termino vite sue naturalis absq; impeticone vasti & ab & post determinaconem p̄dict status ejusdem Caroli Domini Gerard ad opus & usum p̄dict Edwardi Littleton Walteri Chetwind Thome Kinnersley & Willielmi Chetwind & Hered suor durant vita naturali p̄dcī Dnī Caroli Domini Gerard & post ejus decessum tunc ad opus & usum primogeniti filij p̄dcī Caroli Domini Gerard super corpus p̄dict Jane Digby legitime procreand & Hered mascul de corpore talis primogeniti filij legitime exeunt & p defectu talis exitus tunc ad opus & usum secundi filij p̄dcī Caroli Domini Gerard super corpus p̄dict Jane Digby legitime procreand & Hered masculor de corpore talis secundi filij legitime exeunt & pro defectu talis exitus tunc ad opus & usum tertij filij p̄dict Caroli Domini Gerard super corpus p̄dict Jane Digby legitime procreand & Heres masculorum de corpore talis tertij filij legitime exeunt & pro defectu talis exitus tunc ad opus & usum omnium & singulor fil & filior p̄dcī Caroli Domini Gerard super corpus p̄dict Jane legitime procreand successive prout ipsi forent in senioritate annor & prioritate nativitatis un p al & Hered masculor suor respectivor corpor legitime procreand semper p̄ferend seniorem fil & hered mascul de corpore suo ante junior & hered mascul de corpore suo procreand & pro defect talis exitus vel in casu quod p̄dcā Jana contingeret fore p̄gnans (Anglice with Child) ad tempus deces p̄dict Caroli Domini Gerard tunc ad opus & usum p̄dict Jane usq; mortem suam vel nativitat seu deliberacon talis pueri vel liberor de quo vel quibus ipsa eadem Jana sic foret p̄gnans ad tempus mortis p̄dict Caroli Domini Gerard utrum prius accidederet ac postea ad opus & usum primogeniti filij p̄dict Caroli Domini Gerard super corpus p̄dict Jane procreat & hered mascul de corpore talis primogeniti filij legitime procreand & pro defectu talis exit ad usum quorumlibet al filior p̄dcī Caroli Domini Gerard sup corpus p̄dce Jane legitime procreand & hered masculor suor respectivor corpor procreand successive Et pro defectu talis exitus in casu p̄dict Carolus Dominus Gerard haberet aliquem exit femineum viven p ipsum super corpus p̄dce Jane procreat tunc ad opus & usum ipsorum eorundem Edwardi Littleton Walteri Chetwind Thome Kinnersley & Willielmi Chetwind Executor Administrator & Assign suorum a die mortis p̄dcī Caroli Domini Gerard pro & durant termino & spacio quingentorum annorum extunc primo sequen & plenarie complend & finiend Et post finem expiraconem sursum reddicon vel al determinacon p̄dcī termini ad opus & usum p̄dcī Caroli Dnī Gerard & hered masculorum de corpore p̄dcī Thome Dnī Gerard patri p̄dcī Caroli Domini Gerard Et pro defectu talis exit tunc ad opus & usum rector heredum p̄dict Caroli Domini Gerard imperpetuum virtute cujus quidem concessionis necnon vigore actus p̄dict de usibus in possessionem transferend Idem Carolus Dominus Gerard fuit seisit de p̄dicto Capital Messuagio Capite Baronie p̄dict cum ptin sibi & heredibus suis usq; tempus solempnizacon p̄dcī intens Maritagij Et sic inde seisit existen p̄dict Maritagium inter p̄dict Carolum Dominum Gerard & p̄fat Janam Digby postea scilicet tricesimo die Novembris Anno Regni dicti nuper Regis Caroli secundi duodecimo apud Gerards Bromley p̄dict solempnizat fuit Et p̄dcus Carolus Dominus Ge-

rard

The Uses of the Marriage-Settlement, 1, 2, 3, *&c.* Sons.

Child in *Ventre sa Mere.*

If none but Daughters, then to the Trustees for 500 years.

rard p̄fat' Jane juxta Rit' Ecclesie Anglicane adtunc & ibidem disponsat' & nupt' fuit per quod p̄dictus Carolus Dominus Gerard fuit seisit' de p̄dict' Capital' Messuagio Capite Baronie sue p̄dict' existen̄ cum ptin̄ in dominico suo ut de libero tenemento p̄ termino vite sue remanen̄ inde in forma p̄dict' spectan̄ Et sic inde seisit' existen̄ idem Carolus Dominus Gerard postea habuit exit' de corpore p̄dict' Jane tunc Uxor' sue procreat' videlicet p̄dict' Digby postea Dom̄ Gerard filium suum unic' videlt apud Gerards Bromley p̄dict' Et postea idem Carolus Dominus Gerard ibidem obijt absq; exit' femineo de corpore suo exeun̄ post cujus mortem p̄dca̅ Baronia descendebat p̄dict' Digby Domino Gerard ut filio & hered' p̄dict' Caroli Domini Gerard Idemq; Digby Dominus Gerard in demand' p̄dict' nominat' in p̄dict' Capitali Messuagio cum ptin̄ Capite Baronie sue p̄dict' ut p̄fertur existen̄ intravit & fuit inde seisit' in dominico suo ut de feodo talliato videlicet sibi & heredibus masculis de corpore suo exeun̄ remanen̄ inde heredibus masculis p̄dict' de Baronia & Honore p̄dict' ut de feodo talliat' & jure ac in eodem Capital' Messuagio fuit comorans & residen̄ & sic inde seisit' existen̄ idem Digby Dominus Gerard postea apud Gerards Bromley p̄dict' obijt sic inde seisit' & ibidem comoran̄ sine exit' masculo de corpore suo exeun̄ per quod p̄dca̅ Baronia ac remanen̄ p̄dict' Capitalis Messuag' Capitis Baronie p̄dict' cum ptin̄ superius limitat' hered' mascul' de corpore p̄dict' Thome Domin̄ Gerard descendebat de ipso p̄dict' Digby Domino Gerard eidem Carolo modo Domino Gerard ut Consanguineo & Hered' mascul' de corpore p̄dict' Thome Dom̄ Gerard videlicet ut filio & hered' Ric' Gerard filij & hered' Johannis Gerard filij p̄dicti Thome Dom̄ Gerard & Fratris p̄dict' Gilberti Dom̄ Gerard p̄ quod idem Carolus modo Dominus Gerard in p̄dict' Capital' Messuagium cum ptin̄ Caput Baronie sue p̄dict' existen̄ intravit & fuit & adhuc existit inde seisit' in dominico suo ut de feodo talliato videlicet sibi & heredibus masculis de corpore p̄dict' Thome Domini Gerard exeun̄ ac de Baronia p̄dca̅ ut de feodo talliato & jure Et hoc parat' est verificare unde pet' Judicm̄ si p̄dca̅ Eliz' dotem suam de p̄dicto Capitali Messuagio cum ptin̄ Capite Baronie ipsius Caroli modo Domini Gerard ut p̄fertur existen̄ ex dotacone p̄dict' Digby Domini Gerard quondam viri sui habere debeat &c Cum hoc quod idem Carolus modo Dominus Gerard ulterius verificare vult quod ipse idem Carolus modo Dominus Gerard post mortem p̄dci Digby Domini Gerard & ante diem impetracionis p̄dict' Bris Originalis p̄fat' Eliz' scilicet vicesimo die Martij Anno Regni Domini Jacobi secundi nuper Regis Angl' tertio apud Gerards Bromley p̄dict' assignavit eidem Eliz' diversa Messuagia Terras & Tenementa cum ptin̄ magni annual' valoris scilicet annual' valorem quadringentar̄ librar̄ existen̄ plenam tertiam partem al' Messuagij & Terrarum que fuer' p̄dict' Digby Dominum Gerard nup̄ viri sui unde eadem Eliz' dotabil' fuit habens eidem Eliz' p̄ termino vite sue nomine dotis sue sibi contingen̄ de p̄dict' al' Messuag' & Terris p̄terquam Tenementa p̄dict' in demand' p̄dict' mencionat' que fuer' p̄dict' Digby Domini Gerard quondam viri sui in sepal' Com̄ Stafford & Cestr' ad quam quidem assignacon̄ dotis de p̄d al' Messuag' & Terris p̄dict' Eliz' tunc agreavit & deinde acceptavit videlicet apud Gerards Bromley p̄dict' Et quoad p̄dict' Hundred de Pirehill & centum & unum solid' reddit' existen̄ resid' Tenementor̄ p̄dict' cum ptin̄ in demanda p̄dict' supius specificat' idem Carolus modo Dominus Gerard dic' quod ipse idem Carolus modo Dominus Gerard a tempore mortis p̄dict' Digby Domini Gerard

Descent from *Charles* Lord *Gerard* to *Digby* Lord *Gerard*.

Then to the Deft' *Charles* Lord *Gerard*.

Averment that the Deft' did assign other Lands for her Dower, to which she agreed.

As to the Demand of the third part of the Hundred of *P*. and 5 *l*. Rent, that the Deft' was and is ready, *&c*.

rard semper hucusq; parat fuit & adhuc parat existit ad reddend' pfat Eliz' dotem suam de eisdem Hundred & reddit Et ill hic in Cur reddit &c. sup quo eadem Eliz' pet Judicium & seisin de tertia parte pd Hundred & reddit cum ptin sibi adjudicari &c. Ido cons est quod pdca Eliz' recupet seisin suam versus pfat Carolum de pdca tertia parte pdict Hundred & reddit cum ptin Et pdcus Carolus in mia &c.

Judgment for the Plt' for the third part of the Hundred, and Rent.

Et pdca Eliz' quoad plitum pdict Caroli quoad pdict Capital Messuagium vocat Bromley-Hall cum ptin supius in barram plitat dic quod plitum illud materiaq; in eodem content minus sufficiend in lege existunt ad ipsam Eliz' a dote sua de pdict Capital Messuagio cum ptin hend pcludend quodq; ipsa ad plitum illud modo & forma pdict superius plitat necesse non het nec p legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficiend respons in hac parte eadem Eliz' per Judicium & dotem suam de pdco Capital Messuagio cum ptin sibi adjudicari &c.

Demurrer to the Plea general.

Et pdcus Carolus Dominus Gerard ex quo ipse sufficiend materiam in lege in plito suo pdict quoad pdict Capitale Messuagium vocat Bromley-Hall cum ptin ad pdict Eliz' a dote sua pdca de eodem Capital Messuag cum ptin hend pcludend supius allegavit quam ipse parat est verificare quam quidem materiam pdca Eliz' non dedit nec ad eam aliqualit respond set verificationem illam admittere omio recusat ut prius per Judicium & quod pdca Eliz' a dote sua de pdco Capital Messuag cum ptin hend pcludatur &c. Et quia Justic hic se advisare volunt de & sup pmissis priusquam Judicium inde reddant dies dat est partibus pdictis hic usq; in Octabis Scti Hillarij de audiendo inde Judicio suo Eo quod ijdem Justic hic inde nondum &c.

Joynder in Demurrer.

Mich. 6 W. & M. Judgment for the Demandmant per tot' Cur'.

FH
MVSEVM
BRITANNICVM

Error.

Pasch. 28 Car. II. Rot. 943.

Kirbride Armig' Vic' *versus* Dykes.

Vide *Levinz* Part II. fol. 180.

1 Crok. 286. Error of a Judgment in Debt on a Bail-bond in *B. R.*

Placita in Camera Scaccarij apud Westm̄ coram Francisco North Mil' Capital' Justic' Dñi Regis de Com̄i Banco & Willielmo Mountague Armig' Capitale Barom̄ de Scaccario Dñi Regis ac de Gradu de la Coyfe necnon Hugone Windham Mil' & Roberto Atkins Mil' Balnei duobus al' Justic' Dñi Regis de Com̄i Banco acetiam Timotheo Littleton Mil' & Edwardo Thurland Mil' duobus al' Baronibus de Scaccario Dñi Regis præd' ac de Gradu de la Coyfe die Sabbati sexto die Maij Anno Regni Dñi Caroli secundi Dei Gratia Angl' Scoc' Franc' & Hibern̄ Regis Fidei Defensoris &c. vicesimo octavo.

Stat. 27 *Eliz.* recited.

DOminus Rex mandavit dilecto & fideli suo Mattheo Hale Mil Capital Justic Dnd Regis ad plita in Cur ipsius Dnd Regis coram ipso Rege tenend assign Breve suum clausum in hec verba: Carolus Secundus Dei Gratia Angl Scoc Franc & Hibnie Rex Fidei Defensor &c. Dilecto & fideli nostro Mattheo Hale Mil Capital Justic nostro ad plita coram nobis tenend assign salutem Cum in Statuto in Parliamento Dne Elizabethe nup Regine Anglie apud Westm vicesimo tertio die Novembris Anno Regni sui vicesimo septimo tent edit inter cetera inactitat fuit Authoritate ejusdem Parliamenti quod ubi aliquod Judicium ad aliquod tempus extunc postea reddit foret in Cur de Banco Regis in aliqua secta aut actone debiti detentonis con-

venkonis

venconis computi acconis super Casum ejectione firme aut transgress primum inchoat aut primum ibidem inchoand ptérea tantum nos forémus pars pars queren aut defenden contra quam aliquod tale Judicium reddit foret ad suam eleccon prosequi potest extra Cur Cancellar speciale Breve de Errore dorsand in dicta Cur Cancellar Capital Justic dicte Cur de Banco Regis pro tempore existen dirigen mandans illi causare dictum Recordum ac omnia concernen dictum Judicium transferri coram Justic de Communi Banco & Baronibus de Scaccario in Cameram Scaccarij ibidem examinand p dictos Justic de Communi Banco & Barones pdictos Qui quidem Justic de Communi Banco & tales Barones de Scaccario qui sunt de Gradu de la Coyfe aut sex illorum ad minus virtute ejusdem actus superinde plenam Potestatem & Authoritatem habebunt examinand omines tales Errores quales assign aut invent fuer in aut super aliquod tale Judicium & super inde reversare aut affirmare dictum Judicium put lex requireret pterquam p Erroribus assign aut inveniend p aut concernen Jurisdictionem pdict Cur nostre de Banco Regis aut p aliquo defectu forme in aliquo Brevi retorn Querela Billa Declaracon aut in alio placito pcessu veredicto aut pcedentia quibuscunq; Et quod postquam dictum Judicium affirmat aut reversum fuit dictum recordum ac omnia illud concernen in dictam Cur de Banco Regis removend & reducend erunt ut talis ulterior processus superinde fiat tam pro execucon quam aliter prout ptinebat sicut in dicto Statuto plenius continetur. Et quia in recordo & processu acetiam in redditione Judicij loquele que fuit in Cur nostra coram nobis per Billam inter Bernardum Kirkbridge Armiger nup Vic Com Cornub & Leonardum Dykes de Warthall in Com Cumbr alias dictum Leonardum Dykes de Warthole in Com pdict de debito duarum mille librarum quod idem Bernardus a pfat Leonardo exigit ut dicitur Error intervenit manifestus ad grave dampnum ipsius Leonardi sicut ex querela sua accepimus qui quidem Error nullo modo tangit nos aut Jurisdictionem pdict Cur nostre de Banco Regis pd aut aliquem defectum forme in aliquo Brevi retorn querela Billa Declaracon aut in alio placito proces veredicto aut pcedentia quibuscunq; ut accepimus Nos igitur volentes Errorem si quis fuit juxta formam Statuti pdicti corrigi & partibus pdictis plenam & celerem Justiciam fieri in hac parte vobis mandamus quod si Judicium inde reddit sit tunc Record & Proces pdict cum omnibus ea tangen coram dictis Justic de Communi Banco & Baronibus de Scaccario in Cameram Scaccarij nostri pdicti die Sabbati videlicet sexto die Maij primo futur venire fac ut dic Justic & Baron visis & examinatis Record & Proces pdict ulterius in hac parte fieri fac quod de jure & secundum formam Statuti pdicti fuer faciend Teste meipso apud Westm vicesimo quarto die Aprilis Anno Regni nostri vicesimo octavo.

Exceptions on the Statute.

Plumpton.

Record & Process predict cum omnibus ea tangen de quibus in Brevi predict fit mencio sequitur in hec verba: Placita coram Domino Rege apud Westm de Termino Sancte Trinitatis anno Regni Domini Caroli Secundi nunc Regis Anglie &c. vicesimo septimo, Rot. 943.

Recitatio Record' in Curia de B. R. transcript' in Cur' Scaccar'.

Cumbr' ss. MEmorand quod alias scilicet Termino Pasche ultimo preterito coram Domino Rege apud Westm ven Barnardus Kirkbride Armiger nup Vic Com Cumbr per Galfridum Wybeigh Attorn suum Et protulit hic in Cur dicti Domini Regis tunc ibidem quandam Billam suam versus Leonardum Dykes de Warthole in Com Cumbr Armig alias dictum Leonardum Dykes de Warthole in Com predict Armiger in custodia Mar &c. de placito debiti Et sunt Pleg de ps scilicet Johannes Doo & Richardum Roo que quidem Billa sequitur in hec verba scilicet: Cumbr ss. Bernardus Kirkbride Armiger nuper Vic Com Cumbr Queritur de Leonardo Dykes de Warthole in Com predict alias dict Leonardum Dykes de Warthole in Com predict Armiger in custodia Mar Maresc Domini Regis coram ipso Rege existen de placito quod reddat ei duas mille libras legalis monete Anglie quas ei debet & injuste detinet p eo videlicet quod cum pd' Leonardus vicesimo nono die Augusti Anno Regni dicti Domini Regis nunc vicesimo sexto apud Parochiam de Brigham in Com predict per quoddam scriptum suum Obligatorium sigillo predicti Leonardi sigillat Curieq dicti Domini Regis nunc hic ostens cujus dat est eisdem die & anno cognovit se teneri & firmiter obligari eidem Bernardo per nomen Bernardi Kirkbride Armiger Vic Com Cumbr in predictis duabus mille libris solvend eidem Bernardo cum inde requisit esset predictus tamen Leonardus licet sepius requisit &c. predict duas mille libras prefat Bernardo nondum reddidit sed ill ei hucusq reddere omnino contradixit & adhuc contradic unde dic quod deteriorat est & dampnum habet ad valenciam viginti libr Et inde produc sectam &c.

Narratio.

Et modo ad hunc diem scilicet diem Veneris primo post Trin Sce Trinitatis isto eodem Termino usque quem diem predict Leonardus Dykes habuit licenciam ad Billam predict interloquend & tunc ad respondend &c. coram Domino Rege apud Westm ven tam predictus Bernardus Kirkbride per Attorn suum predcum quam predictus Leonardus Dykes per Thomam Johnson jun Attorn suum Et idem Leonardus Dykes defend vim & injur quando &c. Et pet audit scripti Obligatorij predict Et ei legitur in hec verba scilicet Noverint Universi p presentes nos Henr Curwin de Camerton in Com Cumbr Armiger Leonardum Dykes de Warthole in Com predict Armiger & Nicholaum Lambe de Camerton in Com predict Yeom teneri & firmiter obligari Bernardo Kirkbride Armiger Vic Com Cumbr in duabus mille libris bone & legalis monete Anglie solvend eidem Vic Executoribus Administratoribus vel Assign suis ad quam quidem solucionem bene & fideliter faciend obligamus nos & quemlibet nostrum conjunctim & divisim per se p toto

Deft' craves Oyer of the Bond.

toto Heredes Executores & Administratores nostros firmiter p p̄sentes Sigillis nostris sigillat dat vicesimo nono die Augusti Anno Regni Domini nostri Caroli Secundi Dei Gratia nunc Anglie &c. vicesimo sexto Annoq; Dni Millesimo sexcentesimo septuagesimo quarto per etiam auditum Condic̄onis ejusdem scripti Et ei legitur in hec verba scilicet : The Condition of this present Obligation is such, That if the above-bounden *Henry Curwen* Esq; do appear before His Majesty's Justices of the Kings-Bench at *Westminster* die Veneris primo post tres septimanas Sci Michaelis, to answer *Anne Curwen* Widow, in a Plea of Trespass, Acetiam Bille ipsius Anne Curwen Vidue versus ipsum Henr pro mille libris secundum Consuetudinem Cur p̄dict exhibend, That then this present Obligation to be void and of none effect, or else to stand and remain in full power, force and vertue with effect. Quibus lectis & auditis idem Leonardus dic quod ipse de debito p̄dicto virtute scripti p̄dicti onerari non debet Quia dic quod ante confecc̄onem scripti Obligatorij p̄dicti scilicet p quendam Actum factum in Parliamento Domini Henrici nuper Regis Anglie &c. sexti tent apud Westm in Com Midd vicesimo quinto die Februarij Anno Regni sui vicesimo tertio recitat in eodem Actu quod Dominus Rex considerans magn Perjur Extorc̄on & Oppression que tunc fuer & p̄antea fuissent in Regno Anglie per suos Vic Subvic & eorum Clericos Coronatores Seneschall Franches Ballivos & Custod Prisonar & al Officiar in diversis Com hujus Regni inter alia inactitat fuit Authoritate ejusdem Parliamenti pro evitac̄on omnium tal Extorc̄on Perjur & Oppression quod null Vic ad firmam traderet in aliquo modo Com suum nec aliquem Ballivarum suarum Hundred nec Wapentake Nec quod p̄dict Vic Subvic Ballivij Franches nec aliquis al Ballivus retorn super aliquod Breve sive Precept eis direct retorn aliquas inquisic̄ones in aliquo Panello supinde fiend aliquos Ballivos Officiar sive Servos aliquibus Officiar p̄dict in aliquo Panello p ipsos sic fiend nec quod aliquis p̄dict Officiar vel Ministrorum occ̄one vel sub colore eorum Officij caperent aliquam al rem per ipsos nec p aliquam aliam personam ad eorum usum p̄ficuum vel emolumentum de aliqua persona per ipsos vel aliquos eorum arrestand vel attachiand nec de aliquo alio eorum pro commission alicujus arrestac̄on vel attach fiend p eorum corpus vel de aliqua persona per ipsos vel aliquos eorum vigore aut colore eorum Officij arrestat sive attachiat p Fine Feodo Secta Prison Manucapc̄on ad Ballium tradic̄on vel demonstrac̄on (Anglice shewing) alicujus easiamenti sive favoris alicui tali p̄sone sic arrestat sive arrestand pro ejus aut eorum p̄mio sive p̄ficuo Nisi tal qual sequuntur videlicet p Vic viginti denar pro Ballio qui faceret arrestac̄on vel attachiament quatuor denar pro Custod Prisone (Anglice Gaoler) si Prisonarius sit commiss custodie sue quatuor denar Et quod Vicecom Subvicecomes Clericus Vicecomes Seneschall aut Ballivus Franches Serviens aut Ballivus aut Coronator non caperent aliquam rem sub colore Officij sui per se nec per aliquam al personam ad usum suum de aliqua persona pro confecc̄one alicujus retorn sive Panell & p copia alicujus Panelli nisi quatuor denar Et quod p̄dict Vicecom & omnes al Officiar & Ministr

Oyer of the Condition.

23 H. 6. c. 10. pleaded.

nister p̄dict tradèrent extra Prisonam omnimodas psonas & ipsos vel aliquos eorum arrestand vel existen in eorum custodia virtute alicujus Brevis Bille sive Warranti in aliqua Accione personal aut per causam Indictamenti de transgress super rationabiles fidejussores sufficien personas habentes sufficien infra Com ubi tales persone sic forent tradit ad Ballium sive Manucapcon ad custod eorum dies in talibus locis qual dicta Brevia Bille sive Warrant requirerent tal personam sive personas que fuerunt sive forent in eorum custod p Condempnacon Execucon Capias Utlagat vel Excommunicatat Securitat de pace & omnibus tal personis que fuerunt sive forent commiss ad custod per speciale mandatum aliquorum Justic & Vagabond recusan servire secundum formam Statuti de Laboratoribus tantummodo excepc Et quod null Vicecom nec aliquis Officiar vel Ministrorum p̄dict caperent vel capi causarent vel facerent aliquam Obligacon pro aliqua causa supradict vel colore Officij sed solummodo sibimetip̄is de aliqua persona per aliquam personam que esset in eorum custod per cursum Legis nisi per nomen eorum Officij Et sup Condicon scripti quod p̄dict Prisonar compent ad diem content in dictis Brevibus sive Warrant Ac in talibus locis qual p̄dicta Brevia Bille sive Warrant Ministrorum p̄dictorum caperent aliquam Obligaconem in al forma colore Officiorum suorum quod tunc eadem vacua foret prout in eodem actu inter alia plenius liquet & apparet Et p̄dict Leonardus ulterius dic quod post edicon p̄dicti Actus Parliamenti ac p̄dicto tempore confeccionis scripti Obligatorij p̄dict' scilicet p̄dicto vicesimo nono die Augusti Anno Regni dci Dni Regis nunc vicesimo sexto supradicto p̄dictus Bernardus Kirkbride fuit Vicecom Com Cumbr p̄dict debite elect & constitut quodq; ante confeccionem scripti Obligatorij p̄dicti scilicet Termino Sancte Trinitatis Anno Regni dci Dni Regis nunc vicesimo sexto supradicto p̄dicta Anna Curwen in Condicone p̄dicta superius nominat psecut fuit extra Cur dicti Domini Regis nunc coram ipso Rege quoddam Breve dicti Domini Regis de Alias Capias p̄dict Vicecom Cumbr direct per quod quidem Breve idem Dominus Rex nunc eidem Vicecom Cumbr p̄dict Precepit sicut alias Precepisset quod caperet p̄dictum Henr Curwen in condicone p̄dicta superius nominat si invent fuisset in Balliva sua & eum salvo custod ita quod haberet corpus ejus coram eodem Domino Rege apud Westm die Veneris proximo post tres septimanas Sancti Michaelis ad respondend p̄fat Anne Curwen de placito transgress Acetiam Bille ipsius Anne versus ipsum Henr pro mille libris secundum Consuetudinem Cur ipsius Domini Regis coram ipso Rege exhibend Et quod haberet ibi tunc Breve illud quod quidem Breve postea & ante retorn inde scilicet vicesimo octavo die Augusti Anno Regni dicti Domini Regis nunc vicesimo sexto supradicto apud Cockermouth in Com Cumbr p̄dict p̄fat Bernardo Kirkbride tunc Vicecom Com Cumbr p̄dict existen deliberat fuit in forma juris exequend virtute cujus quidem Brevis idem Bernardus postea & ante retorn inde scilicet eodem vicesimo nono die Augusti Anno Regni dicti Dni Regis nunc vicesimo sexto supradicto apud Cockermouth p̄dict in Com Cumbr p̄dict ipsum Henr cepit

Process by *Alias Capias.*

The Arrest.

cepit & arrestavit ac ipsum Henric in Prisona sub custodia sua adtunc & ibidem habuit & detinuit Et pdict Leonardus ulterius dic quod pdict Henric in Prisona sub custodia pfat Bernardi Kirkbride adtunc Vicecom Com Cumbr pdict virtute Brevis illius existen idem Leonardus simulcum pfat Henric & quodam Nicholao Lambe postea scilicet pdicto tempore confeccionis scripti Obligatorij pdicti p scriptum Obligatorium illud sigillis suis sigillat & eidem Bernardo ut eorum factum deliberat conjunctim & divisim devenit ten & obligat eidem Bernardo in pdictis duabus mille libris sub Condicione pdicta pro easiamento & favore eidem Henric Curwen de Imprisonamento suo pdicto per pdictum Bernardum Kirkbride demonstrand & pro deliberatione sua abinde habend & obtinend Quod quidem scriptum Obligatorium idem Bernardus colore Officij sui pdicti de eodem Leonardo & de pdicto Henric & Nicholao cepit contra formam Statuti pdicti Et sic inde idem Leonardus dic quod scriptum Obligatorium pdict hic in Cur plac in forma pdicta & ex causa pdicta ut pfertur capt & fact vigore Statuti pdict vacuum in lege existit Et hoc idem Leonardus paratus est vificare unde pet Judicium si ipse idem Leonardus de debito pdicto virtute scripti Obligatorij pdicti onerari debeat &c.

The Bail-Bond *pro easimento & favore*, and so void by the Statute.

Et pdictus Bernardus Kirkbride dic quod ipse per aliqua per pdict Leonardum Dykes superius placitando allegat ab Accone sua pdicta inde versus ipsam Leonardum Dykes habend pcludi non debet Quia dic quod placitum pdict per ipsum Leonardum Dykes modo & forma pdictis superius placitat materiaque in eodem content minus sufficien in lege existunt ad ipsum Bernardum Kirkbride ab Accone sua pdicta inde versus pfat Leonardum Dykes habend pcludend Ad quod idem Bernardus necesse non habet nec per legem terre tenetur aliquo modo respondere Et hoc paratus est verificare unde pro defectu sufficien respons in hac parte idem Bernardus Kirkbride petit Judicium & debitum suum unacum dampnis suis occasione detencionis debiti illius sibi adjudicari &c.

Plaintiff demurs generally.

Et pdict Leonardus Dykes dic quod placitum pdictum p ipsum Leonardum modo & forma pdict superius placitat materiaque in eodem content bon & sufficien in lege existunt ad pdictum Bernardum Kirkbride ab Accone sua pdict inde versus Leonardum habend precludend quod quidem placitum materiamque in eodem content idem Leonardus parat est verificare & probare prout Cur &c. Et quia pdict Bernardus ad placitum ill non respond nec illud hucusque aliqualiter dedic idem Leonardus ut prius pet Judicium & quod pdictus Bernardus ab Accone sua pdca inde versus ipsum Leonardum habend precludatur Sed quia Cur dci Dni Regis nunc hic de Judicio suo de & super pmissis reddend nondum advisatur dies inde dat est partibus pdictis coram Dno Rege apud Westm usque diem Sabbati proximo post tres septimanas Sancti Michaelis de Judicio suo de & super pmissis audiend Eo quod Cur dicti Domini Regis nunc hic inde nondum &c. Ad quem diem coram Domino Rege apud Westm ven partes

Joynder in Demurrer.

Continuance.

2 Continuance. tes pdicte per Attorn suos pdict Sed quia Cur dicti Domini Regis nunc hic de Judicio suo de & super pmissis reddend nondum advisatur dies inde ulterius dat est partibus pdictis coram Dño Rege apud Westm usque diem Lune proximo post Octabas Sancti Hillarij de Judicio suo de & super pmissis

3 Continuance. audiend Eo quod Cur dicti Domini Regis nunc hic inde nondum &c. Ad quem diem coram Domino Rege apud Westm ven partes pdict per Attorn suos pdict Sed quia Cur dicti Domini Regis nunc hic de Judicio suo de & sup pmissis reddend nondum advisatur dies inde ulterius dat est partibus pdictis coram Domino Rege apud Westm usque diem Mercurij proximo post Quindenam Pasche de Judicio suo de & super premissis audiend Eo quod Cur dicti Domini Regis nunc hic inde nondum &c. Ad quem diem coram Domino Rege apud Westm ven partes pdict per Attorn suos pdict sup quo visis & per Cur dicti Domini Regis nunc hic plene intellectis omnibus & singulis pmissis maturaque deliberacone supinde habita pro eo quod videtur Cur dicti Domini Regis nunc hic quod placitum pdictum p ipsum Leonardum Dykes modo & forma pdict materiaque in eodem content minus sufficien in

Judicium pro Quer' in B. R. lege existunt ad ipsum Bernardum Kirkbride ab Accone sua pdicta inde versus pfat Leonardum Dykes habend pcludend Ido cons est quod pdictus Bernardus Kirkbride recupet versus pfat Leonardum Dykes debitum suum pdictum necnon cto libras pro dampnis suis que sustinuit tam occasione detencois debiti illius quam pro misis & custagijs suis p ipsum circa sectam suam in hac parte apponit eidem Bernardo p Cur dicti Domini Regis nunc hic ex assensu suo adjudicat Et pdictus Leonardus in mia &c.

Placita in Camera Scaccarij apud Westm coram Francisco North Mil Capital Justic Domini Regis de Communi Banco ac Willielmo Mountague Armiger Capital Baron de Scaccario Domini Regis de Gradu de la Coyfe necnon Hugone Wyndham Milite Roberto Atkins Mil Balnei & Willielmo Scroggs Mil tribus al Justic dicti Domini Regis de Communi Banco acetiam Timotheo Littleton Mil Edwardo Thurland Mil & Vere Bertie Armiger tribus alijs Baronibus de Scaccario Domini Regis de Gradu de la Coyfe die Sabbati vicesimo quinto die Novembris Anno Regni Domini Caroli Secundi Dei Gra Angl Scoc Franc & Hibernie Regis Fidei Defensoris &c. vicesimo octavo Ad quem diem hic ven hic in Cur in pdicta Camera Scaccarij pdict Leonardus Dykes de Warthole in Com Cumbr Armiger per Thomam Johnson jun Attorn suu

Errors assign'd. Et dic quod in Recordo & Processu acetiam in reddicone Judicij pdict manifeste est errat in hoc videlicet quod ubi p Recordum pdict apparet quod Narratio pdict & materia in eodem content minus sufficien in lege existunt Sicque Judicium pdict in forma pdicta reddit & tot Proces superinde totalit vacua & erronea in lege existunt Errat est etiam in hoc quod ubi per veredictum pdict apparet quod Judicium pdictum in forma pdicta reddit reddit fuit p pfat Bernardo Kirkbride Armiger versus pfat Leonardum Dykes tamen p legem terre hujus Regni Anglie Judicium illud reddi debuisset pro pfat Leonardo

Leonardo Dykes versus p̄fat Bernardum Kirkbride Jō in eo manifeste est errat Et per Breve Domini Regis Vicecom̄ Cumbr̄ dirigend̄ ad p̄muniend̄ p̄fat Bernardum Kirkbride essend̄ hic auditur̄ Recordum & Process p̄dict Et ei conceditur &c. Jō Precept est Vicecom̄ quod p probos &c. Scire fac p̄fat Bernardo quod sit hic die Sabbati primō futur auditur̄ Record & Process p̄dict si &c. Et ulterius &c. Idem dies dat est p̄fat Leonardo Dykes hic &c.

Judgment affirmed per plus part des Justices contr' North.

Mic. 10 W. III. Rot. 161.

Batson *versus* Potter & al'.

Potter & *Northy*'s Case. *Pa.* 21 Car. 2. B. R. Rot. 175. *Tr.* 26 Car. 2. B. R. *Ridley* & *Punch*'s Case.

Dominus Rex mandavit dilecto & fideli suo Salathiel Lovell Mil' Capital' Justic' suo ad placita infra Insulam Elien' in Com' Cantabr' tenend' assign' Breve suum clau' in hec verba: ss. Gulielmus Tertius Dei Gra' Angl' Scoc' Franc' & Hibernie Rex Fidei Defensor' &c. Dilecto & fideli suo Salathiel Lovell Mil' Capitali Justic' nostro ad placita infra Insulam Elien' in Com' Cantabr' tenend' assign' salutem. Quia in Recordo & Processu acetiam in reddic'one Judicij loquele que fuit in Cur' nostra coram vobis sine Brevi nostro inter Robertum Batson jun' & Willielmum Potter nuper de Whitlesey infra Insulam Elien' in Com' Cantabr' Agricolam Johannem Beadles nuper de Whitlesey infra Insulam Elien' in Com' p'dict' Tayler Willielmum Layton nuper de Whitlesey infra Insulam Elien' in Com' p'dict' Agricolam Thomam Campin nuper de Whitlesey infra Insulam Elien' in Com' p'dict' Agricolam Thomam Campin nuper de Whitlesey infra Insulam Elien' in Com' p'dict' Laborer Robertum Crampe nup' de Whitlesey infra Insulam Elien' in Com' p'dict' Laborer Robertum Cassell nuper de Whitlesey infra Insulam Elien' in Com' Cantabr' Laborer Johannem Hinson nuper de Whitlesey infra Insulam Elien' in Com' p'dict' Laborer & Edwardum Dawby nuper de Whitlesey infra Insulam Elien' in Com' p'dict' Agricolam de averijs bonis & catallis ipsius Roberti Batson cape' & injuste detene' ut dicitur Error interveniт manifestus ad grave dampnum ipsius Roberti Batson sicut ex querela sua accepimus Nos errorem si quis fuit modo debito corrigi & partibus p'dict' plenam & celerem Justiciam fieri volentes in hac parte vobis mandamus quod si Judicium inde reddit' sit tunc Record' &

Writ to remove the Record.

Process' p'dict' cum omnibus ea tangentibus nobis sub sigillo vestro distincte & aperte mittatis Et hoc Breve Ita quod ea habeamus a die Sancti Martini in quindecim dies ubicunq; tunc fuerimus in Angl' ut inspect' Record' & Process' p'dict' ulterius inde pro Errore illo corrigend' Fieri fac' quod de jure & secundum Consuetudinem Regni nostri Anglie fuit faciend' Teste Thoma Archiepiscopo Cantuar' & ceteris Custodibus & Justic' Regni apud Westm' decimo quarto die Octobris Anno Regni nostri nono

King.

Respons

Respons Salathiel Lovell Mil Capital Justic infranominat Record & Process loquele unde interius infra fit mencio cum omnibus ea tangentibus coram Domino Rege ubicunq; &c. ad diem infracontent mitto in quodam Record huic Brevi annex' put interius mihi precipitur. Respons. Cap. Justic. de Ely.

S. Lovel C. J. E.

Insul' Elien' in Com' Cantabr' Placita in Cur de Recordo Dnd Regis de generat Session Placitorum tent apud Wisbech die Martis vicesimo secundo die Septembris Anno Regni Domini nostri Willielmi tertij Dei Gra Angl Scoc Franc & Hibernie Regis Fidei Defensoris &c. octavo secundum Consuetudinem Cur pdict a tempore cujus contrarij memoria hominum non existit infra Insulam pdict usitat & approbat coram Salathiel Lovell Mil Capital Justic dcd Dnd Regis ad placita infra Insulam Elien pdict tenend assignand &c. The Record.

Ad hanc Cur ven Robertus Batson jun in ppria psona sua & queritur versus Willielmum Potter nup de Whitlesey infra Insulam Elien in Com pdict Agricolam Johannem Beadles nuper de Whitlesey pdict Tayler Willielmum Layton nuper de Whitlesey pdict Laborer Henr Layton nuper de eadem Agricolam Thomam Campin nuper de eadem Laborer Johannem Heuson nuper de eadem Laborer & Edwardum Dawby nuper de eadem Agricolam de placito quare cepet diversa bona & catalla ipsius Roberti Batson & ea injuste detinuer contra Vad & Pleg &c. Et inven Pleg de psequend scilicet Johannem Doe & Ricardum Roe Et ad istam eandem Cur per Process ei inde fieri secundum Consuetudinem Cur pdict Et ei conceditur &c. Et sup hoc secundum Consuetudinem Cur pdict Precept est Thome Edwards Armig Ballivo Insule pdict & Ministro Cur pdict quod sum per bonos sum Willielmo Potter Johanni Beadles Willielmo Layton Henr Thome Roberto Crumpe Roberto Cassell Johanni Hinson & Edwardo quod sint in Cur hic ad horam undecimam ante meridiem ejusdem diei apud Wisbech pdict hic infra Cur pdict ad respondend pfat Roberto Batson de placito pdicto eadem hora dat est pfat Roberto Batson hic &c, Et super hoc ad eandem horam ven pdict Robertus Batson & po. loc suo Robertum Clarke Attorn suum versus pfat Willielmum Potter Johannem Beadles Willielmum Layton Henr Thomam Robertum Crampe Robertum Cassell Johannem Hinson & Edwardum de placito pdicto Ad quam quidem horam ven tam pdict Willielmus Potter Johannes Beadles Willielmus Layton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus in ppriis personis quam pdict Robertus Batson p Attorn suum pdict Et pfat Thomas Edwards Ballivus Insule pdict & Minister Cur pdict retorn hic in Cur quod ipse sum per bonos sum pdict Willielmo Potter Johanni Beadles Willielmo Layton Henr Thoma Roberto Crampe Roberto Cassell Johanni Hinson & Edwardo essend hic in Cur ad horam pdict ad respondend pfat Roberto Batson de placito pdicto Et super hoc pdict Willielmus Potter Johannes Beadles Willielmns Layton Henr

M 2 Thomas

Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus secundum Consuetudinem p̃dicẽ in Cur̃ hic po. loc suis Michaelem Beale Attorn̄ suum versus p̃dict Robertum Batson de placito p̃dicẽ Et superinde postea ad istam eandem Cur̃ p̃dict Robertus Batson queritur versus Willielmum Potter nuper de Whitlesey p̃dicẽ Agricolam Johannem Beadles nuper de eadem Tayler Willielmum Lapton nuper de eadem Laborer Henr̃ Lapton nuper de eadem Agricolam Thomam Campin nunuper de eadem Laborer Robertum Crampe nuper de eadem Laborer Robertum Cassell nuper de eadem Laborer Johannem Hinson nuper de eadem Laborer & Edwardum Dawby nuper de eadem Agricolam de placito quare cepẽr averia bona & catalla ipsum Roberti Batson Et ea injuste detinuẽr contra Vad̃ & Pleg̃ &c. Et unde idem Robertus Batson per Robertum Clarke Attorn̄ suum p̃dicẽ queritur quod p̃dicẽ Willielmus Potter Johannes Beadles Willielmus Lapton Henr̃ Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus decimo actavo die Julij Anno Regni Domini Willielmi tertij nunc Regis Anglie &c. octavo apud Whitlesey p̃dicẽ in quodam loco vocat Le Bulls Grass hic infra Jurisdictionem hujus Cur̃ cepẽr averia bona & catalla ipsius Roberti Batson videlicet duas equas duo frena duo Capistra Cannabria (Anglice Hempen Halters) duo Helcia (Anglice Horse Collars) duo par̃ Retinaculaꝝ Cannabriaꝝ (Anglice Hempen Traces) ipsius Roberti Batson Et ea injuste detinuẽr contra Vad̃ & Pleg̃ quousq; &c. unde dic̃ quod deterioratẽ est Et dampnum habet ad valenciam viginti libraꝝ Et inde p̃duc̃ sectam &c.

Replevin.

Et p̃dicti Willielmus Potter Johannes Beadles Willielmus Lapton Henr̃ Thomas Robertus Crampe Robertus Cassel Johannes Hinson & Edwardus Dawby per Michaelem Beale Attorn̄ suum p̃dicẽ ven̄ & defend̄ vim & injur̃ quando &c. Et p̃dicẽ Johannes Hinson in jure suo proprio bene advocat & p̃dicẽ Willielmus Potter Johannes Beadles Willielmus Lapton Henr̃ Thomas Robertus Crampe Robertus Cassell & Edwardus ut Ballij p̃dicẽ Johannis Hinson bene cognoscunt capẽonem averioꝝ bonoꝝ & catalloꝝ p̃dicẽ in p̃dicto loco in quo &c. Et juste &c. Quia dic̃ quod p̃dictus locus vocat Le Bulls Grass in quo supponitur capcon̄ averioꝝ bonoꝝ & catalloꝝ ill̃ continebat in se quatuor acras Pasture cum ptin̄ jacen̄ in quodam Communi Campo vocat Coats Field in Eastrea in Parochia de Whitlesey infra Insulam Elien̄ & infra Jurisdicẽonem hujus Cur̃ de quo quidem Campo vocat Coats Field p̃dicẽ locus vocat Le Bulls Grass est Et p̃dicto tempore quo &c. necnon a tempore cujus contrarij memoria hominum non existit fuit parcell̃ Quodq; p̃dica pecia terre vocat Le Bulls Grass a tempore cujus contrarij memoria hominum non existit ula fuit & consuevit quolibet anno jacere in sepalitate (Anglice several) a Festo Annunciaẽonis Beate Marie Virginis usq; Grand̄ in p̃dicto Campo carriat fuit Quodque Philippus Waldegrave Armigẽr est & p̃dicto tempore quo &c. seisie fuit & adhuc seisie existit in dominico suo ut de Feodo de & in Manerijs de Whitlesey Scẽ Marie Whitlesey Scẽ Andree & de Rectoria impropriat de Whitlesey Scẽ Marie alias le Taquinary cum ptin̄ Quodq; p̃dictus Campus vocat Le Coats Field

Avowry.

Conisance as Bailiffs.

Field unde p̄dict locus in quo &c. ut p̄fertur fuit parcell est & p̄dicto tempore capc̄onis &c. necnon a toto tempore cujus contrarij memoria hominum non existit fuit parcell Maneriorum p̄dictorum. Quodq; sunt & a toto tempore sup̄dicto fuer̄ in Castrea p̄dc̄a diversa antiqua Messuagia & terre custumar̄ parcell Maneriorum p̄dictorum respective conces & concessibil p Dom̄ Maneriorum p̄dictorum p tempore existen̄ ad voluntatem Domini secundum Consuetudinem Maneriorum p̄dictorum p Copiam Rotulorum Cur̄ Maneriorum illorum Quodq; sunt & a toto tempore sup̄dicto fuer̄ in Castrea p̄dict diversa antiqua Messuagia & terre existen̄ libere (Anglice Freehold) que respective tenentur & a toto tempore sup̄dicto tenebantur de Manerijs p̄dict in Feod simplici p separ reddit & servic eorum Maneriorum parcell Quodq; infra Maneria p̄dict habetur & a toto tempore cujus contrarij memoria hominum non existit talis habebatur Consuetudo quod tam Custumar̄ simulcum p̄dict liberis tenentibus tenẽtorum illorum & major pars eorum a tempore cujus contrarij memoria hominum non existit concesser̄ & usi fuer̄ & consuever̄ ad conventus p̄dictorum tenentium Custumar̄ & liberorum sup notitiam ante tunc p̄inde dat p Armintarium (Anglice the Pinder de Castrea p̄dict in Communi Strata de Castrea p̄dict concedere Gramen crescen̄ sup eandem peciam terre vocat Le Bulls Grass in quolibet anno cuilibet psone ill pquirere volenti p tali denar̄ sum̄a qual p majorem partem p̄dictorum tenentium ad talem conventum agreat fuit habend Gramen p̄dictum tali pquisitori inde a Festo Annunciac̄onis Beate Marie Virginis usq; Granum in eodem Campo crescen̄ carriat fuit Quodq; p̄dict separ liberi tenentes p̄dictorum tenẽtorum liberorum existen̄ de eorum separ liberis tenẽtis seisit in dominico suo ut de Feodo Et omnes ill quorum statum ipsi separalit habent in eisdem a toto tempore sup̄dicto Et major pars eorum simulcum p̄dictis tenentibus Custumar̄ p̄dictorum tenẽtorum Custumar̄ concesser̄ & usi fuer̄ & consuever̄ ad conventus p̄dict tenentium sup notitiam ante tunc p̄inde dat per Armentar̄ (Anglice the Pinder) de Castrea p̄dict in Communi Strata de Castrea p̄dict concedere p̄dict Gramen crescen̄ sup eandem peciam terre vocat Le Bulls Grass in quolibet anno cuilibet psone ill pquirere volenti p tali denariorum sum̄a qual p majorem partem p̄dictorum tenentium Custumar̄ & liberorum ad talem conventum agreat fuit habend Gramen p̄dict pro tali pquisitore inde a p̄dicto Festo Annunciationis Beate Marie Virginis usq; Granum in p̄dicto Campo crescen̄ carriat fuit Quodq; denar̄ ut p̄fertur agreat solvend & solut pro Gramine p̄dict a toto tempore supradicto erogat & expendit & erogari & expendi usi fuer̄ & consuever̄ pro publico usu p̄dict tenen̄ Custumar̄ & liberorum ad eorum libitum tanquam ad eorum separ libera tenẽta spectan̄ & ptinen̄ Quodq; omnes illi cui vel quibus Gramen p̄dict ad tales conventus ut p̄fertur concess fuisset a tempore cujus contrarij memoria non existit habuer̄ gaviss fuer̄ & usi fuer̄ & consuever̄ habere & gaudere p̄dict Gramen p spacium p̄dict ad usum suum proprium Et p̄dicti Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby ulterius dic quod p̄dict tenentes vicesimo sexto die Martij Anno octavo supradicto apud Castrea p̄dict ac infra Jurisdictionem Cur p̄dict secundum Consuetudinem p̄dict p Georgium Cassell Armentarium (Anglice the Pinder) de Castrea

Special Custom, That the major part of the Copyholders and Freeholders, *&c.* at a meeting used to grant the Grass in every year to any person who would take it, to hold from *Lady-day* till the Corn was carried off. Notice of their meeting by the Pinder.

That the Money coming by such Grant was expended for publick Use.

That the Tenants did grant the Grass to the abovesaid *J. S.*

rea p̄dict apud Castrea p̄dict in Communi Strata de Castrea p̄dict dabant publicam noticiam quod conventus tenentium p̄d haberetur secundum Consuetudinem p̄dict in Communi Strata de Castrea p̄dict vicesimo septimo die Martij Anno octavo supradicto ad concedend Gramen p̄dict crescen sup eandem peciam terre vocat Le Bulls Grass Quodq; p̄dicti tenentes secundum notitiam p̄dict postea & ante tempus quo supponitur capconem averiorum bonorum & catallorum p̄dict fieri scilicet p̄dicto vicesimo septimo die Martij Anno octavo supradicto apud Castrea p̄dict secundum Consuetudinem p̄dict in Communi Strata ibidm conveniebant Et major pars eorundem tenentium adtunc & ibm pinde convent concedebant p̄dcm Gramen crescen sup p̄dict peciam terre p̄dicto Johanni Hinson habend Gramen p̄dcm a Festo Annunciaconis Beate Marie Virginis tunc ult p̄terit usq; Granum in eodem Campo cariaretur p sexaginta & septem solidis pinde solvend dictis tenentibus sup diem Dominicum primo post Festum Sci Martini primo sequen ad usum p̄dcm virtute cujus concessionis idem Johannes Hinson postea & ante Granum in eodem Campo cariebatur scilicet vicesimo nono die Martij Anno octavo supradicto apud Castrea p̄dict Ac infra Jurisdiccionem Cur p̄dict in p̄dictam peciam terre intravit ad capiend Gramen in eadem crescen ad usum suum pprium put ei bene licuit Et quia eque p̄dict duobus Frenis p̄dict duobus Capistris p̄dict duobus Pelcijs & p̄dict duobus Par Retinaculaꝝ sup eis respective affix p̄dicto tempore quo &c. fuer in p̄dicta pecia terra Herbam in eadem crescen depascen Et dampnum ibidem eidem Johanni Hinson facien p̄dictus Johannes Hinson in jure suo pprio bene advocat Ac p̄dict Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassel & Edwardus ut Ballij p̄dict Johannis Hinson & p ejus Precepe bene cogn capconem averiorum bonorum & catallorum p̄dict in p̄dicto loco in quo &c. Et juste &c. dampnum ibidem sic facien Et hoc parat sunt verificare unde pet Judicium & retorn averiorum bonorum & catallorum p̄dict unacum dampnis suis & expens suis p ipsos circa sectam suam in hac parte apposit juxta formam Statuti sibi adjudicari &c.

By vertue whereof he entred, and took the Grass.

And he took the Plt's Beast Damage-feasant.

Bar to the Avowry.

Demurrer by *Protestando*. Cause of Demurrer, for that it appears not to whom the Money was to be paid, nor in what month or year or every year the meeting of the Tenants used to be; and *Protestando* to the truth of the Custom for the sale of the Grass.

Et p̄dictus Robertus Watson dic quod p̄dicti Willielmus Potter Johannes Beales Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby ratione p̄allegata capcon averiorum bonorum & catallorum p̄dictorum in p̄dicto loco in quo &c. justam advocare seu cognoscere non debent Quia ptestando quod advocare & cognico p̄dict materiaq; in eisdem content modo & forma p̄dict fact & ptitat minus sufficien in lege existunt ad manutenend capconem averiorum bonorum & catallorum p̄dictorum in p̄dicto loco in quo &c. fore justam hac de causa (inter alia) videlicet eo quod non constat vel apparet per advocare & cognicon ill cui vel quibus denar p concession Graminis p̄dict solubil aut solvend solvi consuever seu solubil fecer p supponit Consuetudinis p̄dict nec alligatur vel apparet quando scilicet quo mense sive tempore vel in quot annis vel annuatim vel sepius vel rarius p̄dict conventus tenentium p̄dict habuit seu habend fuit protestando etiam non cognicon aliqua de concessione Graminis p̄dict p̄far Johanni

hanni

hanni Hinson fore vera Pro plito tamen idem Robertus Watson dic quod in Castrea pdict (existen Hamlett infra Whitlesey pdict) habetur & a tempore cujus contrarij memoria hominum non existit habebatur Consuetudo quod Inhabitantes ejusdem Hamlett quolibet anno die Dominico primo post Festum Sancti Martini Epi in Hyeme ibm eliger & a toto tempore supdicto eligere consuever duas idoneas psonas de Inhabitantibus illis in Condos (Anglice Stores) p Inhabitantibus de Castrea pdict p quibusdam publicis negocijs Inhabitantium illorum agend faciend & supvidend Qui quidem Condi (Anglice Stores) p tempore existen (inter alia hujusmodi negocia) pvider & custodiver & a toto tempore supradicto pvidere & custodire consuever quendam communem Taurum p eisdem Inhabitantibus Ac, ratione inde ac in & circa onera dicti Officij sui sustinend ijdem Condi (Anglice Stores) p tempore existen Herbam in pdicto loco in quo &c. vocat Le Bulls Grass annuatim crescen a Festo Annunciationis Beate Marie Virginis quousq blada in Campo pdicto crescen messa & abinde asportata fuint cape & recipe sive p pmptis denar eis in manibus solut vendere & disponere consuever optimo pcio quo potuer Et idem Robertus Watson ulterius dic quod ipse ante pdict tempus capcon averiorum bonorum & catallorum pdictorum facte Ac eodem tempore capcon &c. fuit unus de pdictis duobus Condis (Anglice Storers) debito modo ut pfertur adinde prius apud Castrea pdict elect Quodq pdictus Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby de injuria sua ppria diversa bona & catalla ipsius Roberti Watson pdict ceper & injuste detinuer modo & forma put idem Robertus Watson supius versus eos queritur Absq hoc quod infra Maneria pdict habetur & a tempore cujus contrarij memoria hominum non existit habebatur talis Consuetudo de concedendo Granum pdict modo & forma supius in advocare & cognicon pdictis specificat qual Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby supius allegaver Et hoc parat est verificare unde ex quo pdicti Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby captionem averiorum bonorum & catallorum pdictorum in pdicto loco in quo &c. supius cogn Idem Robertus Watson pet Judicium & dampna sua occasione captionis & injuste detentionis averiorum bonorum & catallorum pdict sibi adjudicari &c.

Bar by another Custom, That the Inhabitants used to chuse two Inhabitants every year at such a time to be Storers to act and oversee all their publick Concerns, and amongst others to keep and provide a common Bull, and used to take or sell the said Grass.

That the Plt' was one of the Storers, and the Deft' *de injuria sua propria*, took the Cattle.

Note. But saith not by whom or when elected; And traverseth the other Custom.

Et pdicti Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassel Johannes Hinson & Edwardus Dawby ut prius dic quod infra Maneria pdicta habetur & a tempore cujus contrarij memoria hominum non existit habebatur talis Consuetudo de concedendo Gramen pdicm modo & forma supius in advocat & cognicone pdict specificat qual ipsi idem Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby supius allegaver Et de hoc pon se sup patriam Et pdcus Robertus Watson

Defendants maintain the Custom,

And take Issue upon it.

Batson similiter Ideo pcept est p Cur hic secundum Consuetudinem Curie predict a tempore cujus contrarij memoria hominum non existit pfat Thome Edwards Armiger Ballivo libertat Insule pdict & Ministro Cur pdict quod venire fac coram Capitali Justic ad placita infra Insulam pdict tenend assign ad primam Cur General Session placitorum duodecim pbos & legales homines de Vicin de Whitlesey infra Jur Cur pdict p quos rei veritas melius scire potit Et qui nec pdict Roberto Batson nec pdict Willielmo Potter Johanni Beadles Willielmo Layton Henr Thome Roberto Crampe Roberto Cassell Johanni Hinson & Edwardo aliqua affinitate attingant ad recogn sup Sacram suum utrum infra Maneria de Whitlesey Scti Marie Whitlesey Scti Andree & Rector Impropriat de Whitlesey Scti Marie alias le Caquinary habetur & a tempore cujus contrarij memoria hominum non existit talis habebatur Consuetudo de concedendo Gramen pdict modo & forma supius in advocare & cognicon pdict specificat qual pdict Willielmus Potter Johannes Beadles Willielmus Layton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby allegavit necne quia tam pdict Robertus Batson quam pdict Willielmus Potter Johannes Beadles Willielmus Layton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus inter quos inde contencio est posuer se in Jur ill &c. Idem dies dat est partibus pdict hic &c. Ad quem quidem prim Cur General Session placitorum ten apud Ely in & pro Insula Elien pdict die Lune scilicet quarto die Octobris Anno Regni Dni Willi tertij nunc Regis Angl &c. nono coram pfat Capital Justic Dni Regis ad placita infra Insulam ps tenend ven tam ps Robertus Batson quam pd Willielmus Potter Johannes Beadles Willielmus Layton Henr Thomas Robertus Thome Robertus Cassel Johannes Hinson & Edwardus Dawby p Attorn suos pd Et pd Thomas Edwards Ballivus Insule pdict & Minister Cur pdict retorn hic Precept pdict in forma pdict sibi direct in omnibus servicijs & execut unacum Pannello de nominibus Jur pdict Et Jur inde sic impannellat exact scilt Jacobus Abelin de Whitlesey Robertus Robinson de eadem Adamus Bell de eadem Johannes Knowles de Ely Robertus Cutteris de eadem Johannes Attlesea de eadem Rogerus Pryer de Witcham Thomas Linford de Wentworth Thomas Taylor de Sutton Willielmus Minott de eadem Jacobus Heard de Chatteris & Robertus Selby de eadem ven qui ad veritatem de pmiss pd dicend elect triat & jurat dicunt sup Sacrm suu qd infra Maneria pdict habetur & a tempore cujus contrarij memoria hominum non existit habebatur talis Consuetudo de concedendo Gramen pdict modo & forma supius in advocare & cognicone pdict specificat qual ipsi ijdem Willielmus Potter Johannes Beadles Willielmus Layton Henr Thomas Robertus Crampe Robertus Cassell Johannes Hinson & Edwardus Dawby supius allegavit

Verdict finds the Custom in the Avowry.

Et assidunt dampna ipsorum Willielmi Potter Johannis Beadles Willielmi Layton Henr Thome Roberti Crampe Roberti Cassell Johannis Hinson & Edwardi Dawby occasione pdict ultra mis & custag sua p ipsos circa sectam suam in hac parte apponit ad un solidum Et pro mis & custagijs ill ad quadraginta solidos &c. Ideo cons est p Cur hic qd pd Robertus Batson & Pleg sui de ps

pro

pro falso clamore suo sunt in mia &c. Quer nomina Pleg &c. Et pdcd Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Crampe Robertus Tassel Johannes Hinson & Edwardus Dawby eant inde sine die &c. Et quod habeant retorn averiorum bonorum & catallorum pd &c. Et qualit &c. Consideratum est etiam p istam eandem Cur hic quod pdcd Willielmus Potter Johannes Beadles Willielmus Lapton Henr Thomas Robertus Tassell Johannes Hinson & Edwardus Dawby recuperent vsus pfat Robertum Watson dampna sua pdca p Jur pdict in forma pdict asses ad quadraginta und solidos Necnon quindecim libras eisdem Willielmo Potter Johanni Beadles Willielmo Lapton Henr Thome Roberto Crampe Roberto Tassell Johanni Hinson & Edwardo Dawby ad requisicond suam p mis & custagijs suis pdict p Cur hic de incremo adjudicat que quidem dampna in toto se attingunt ad septemdecim libras & und solid Et pdcus Robertus Watson in mia &c.

Retorn awarded.

Postea scilt die Lune px' post Octabas Scd Hillarij extunc px' sequend coram Dno Rege apud Westm ven pdict Robertus Watson p Carolum Sanderson Attornd suum Et dic pd in Recordo & Process pdict acetiam in redditione Judicij pdict manifest est errat in hoc videlt qd Judicium pd in forma pd reddit reddit fuit p pd Willielmo Potter Johanne Beadles Willielmo Lapton Henr Thoma Roberto Crampe Roberto Tassell Johanne Hinson & Edwardo vsus pd Robertum Watson ubi p legem terre hujus Regni Anglie Judicium illi reddi debuisset p pd Roberto Watson vsus ipsos Willm Potter Johem Beadles Willm Lapton Henr Thomam Robtm Crampe Robtm Tassell Johem Hinson & Edrm Jo in eo manifeste est errat Et pet qd pd Robtus Watson ad oia que ipse occasione Judicij pd amisit Et qd pd Willus Potter Johes Beadles Willus Lapton Henr Thomas Robtus Crampe Robtus Tassell Johes Hinson & Edrus ad errores illi rejungant Et pet simil qd Cur dcd Dnd Regis nunc hic procedat ad examinacond tam Recordi & Process qd pd quam materiarum pd supius p error assignd sup quo pd Willus Potter Johes Beadles Willus Lapton Henr Thomas Robtus Crampe Robtus Tassell Johes Hinson & Edrus gratis hic in Cur p Edrum Southwell Attornd suum statim ven & hic audit errorem pd dic qd nec in Recordi & Process nec in reddicone Judicij pdict in ullo est errat Et pet simil quod Cur dcd Dnd Regis nunc hic procedat ad examinacond tam Recordi & Process pd quam materiarum pdictarum supius p errores illi assignd Et qd Judicium pd in omnibz affirmat Sed quia Cur dcd Dnd Regis nunc hic de Judicio suo de & sup pmissis reddend nondum advisatur dies inde dat partibz pdcis coram Dno Rege ubicunqz &c. de Judicio suo de & sup pmissis audiend Eo quod Cur dcd Dnd Regis hic inde nondum &c.

General Error assigned.

Non est erratum pleaded.

Ejectment.

Hill. 22 & 23 Car II. B. R. Rot. 359.

King *versus* Melling.

Vide *Levinz* Part II. fol. 58.

Suff. ss. MEmorand quod die Lune primo post Octabas Scti Hillarij isto eodem Termino coram Dna Rege apud Westm ven Ricus Kinge p Johem Melling Attorn suu Et pfert hic in Cur dci Dni Regis quandam Billam suam vsus Janam Milling Viduam de plito transgr & Ejeccon firme Et sunt Pleg de psequend scilt Johannes Doe & Ricardus Roe que quidem Billa sequitur in hec verba scilt Suff' ss. Ricardus King Queritur de Jana Melling Vidua in custodia Marr Maresc Dni Regis coram ipso Rege existen p eo videlt qd cum quidam Johes Melling Gen tertio die Octobris Anno Regni Dni nostri Caroli Secundi Dei Gra nunc Regis Anglie &c. vicesimo secundo apud Somerlepton in Com pdicto dimisisset concessisset & ad firmam tradidisset pfat Ricardo duo Messuagia unu Cotagiu viginti acras terre & duas acras pasture cum ptin scituat jacen & existen infra Somerlepton pd & Herringfleete in Com pd habend & tenend tenta pd cum suis ptin pfat Rico & Assign suis a Festo Scti Michaelis Archangeli tunc ult pterit usq finem & terminum quinq annor extunc primo sequen plenarie complend & finiend virtute cujus quidem dimissionis idem Ricus in tenta pdca cum ptin intravit & fuit inde possessionat quousq pd Jana postea scilt eodem tertio die Octobris Anno Regni dci Dni Regis nunc Angl &c. vicesimo secundo supdicto vi & armis &c. in tenta pdicta cum ptin sup possession ipsius Rici inde intravit Et ipm Ricm a firma sua pdca termino suo pdco inde nondum finit ejecit expulit & amovit ipmq Ricm a possessione sua pd inde extra tenuit & adhuc extra

Warr. in Ejectment.

tra

tra tenet & alia enormia ei intulit contra Pacem dict Dni Regis & ad dampnum ipsius Ricî quinquaginta librar. Et inde produc sectam &c.

Et pdca Jana p Ricum Porter Attorn suum ven & defend vim & injur quando &c. Et dic quod ipsa non est inde culpabilis Et de hoc pon se sup priam Et pdcus Ricus simil &c. Jo ven inde Jur coram Dño Rege apud Westm die Lune px post Octabas Purificaconis Be Marie Et qui nec &c. ad recogn &c. Quia tam &c. Idem dies dat est partibus pd ibm &c.

Postea die & loco infracontent coram Mattheo Hale Milite Capitali Justic Dni Regis ad plita coram ipso Rege tenend assign Et Christophero Turnor Mil un Baron Scaccarij dci Dni Regis Justic ipsius Dni Regis ad Assis in Com Suff. capiend assign p formam Statuti &c. ven infranominat Ricardus King p Attorn suum infracontent Et infrascript Jana Melling Vid licet solempnit exact non ven sed defalt fec Jo Jur unde infra sit mencio capiatur versus eum p defalt Et Jur Jure illius exact ven qui ad veritatem de infracontent dicend elect triat & jurat dicunt sup Sacrm suum quod diu ante infrascript tempus transgr & ejeccionis interius fieri supposit quidam Robertus Melling Armig fuit seisit de & in tentis infrascript cum ptin in dominico suo ut de feodo Et sic inde seisit existen habuit exitum de corpore suo legitime procreat quendam Willielmum Melling filium suum primogenitum Robertum Melling secundum filium suum Bernardum Melling tercium filium suum & infrascript Johannem Melling Lessorem modo Quer quartum filium suum Et Jur pd ulterius sup Sacrm suum pd dicunt quod pdcus Robertus filius postea & ante infrascript tempus quo &c. in vita pd Roberti pris sui obijt habens exitum de corpore suo legitime procreat qui adhuc superstes & in plena vita existit Quodq pdcus Robertus Melling Pater sic de tentis pdcis cum ptin seisit existen primo die Julij Anno Dni Millesimo sexcentesimo & quinquagesimo condidit Testamentum & ulc Voluntatem suam in scriptis de tentis pdictis cum ptin inter alia & p eandem ulc Voluntatem suam pd inter alia dedit & devisavit tenta pd cum ptin pd Bernardo tercio filio suo pdcto in his Anglicanis verbis sequen scilt

Special Verdict.

I give unto *Bernard Melling* my Son, for and during his natural Life, all my Lands and Tenements lying and being in *Somerleyton* in the County of *Suffolk*; and after his decease I give the said Lands and Tenements to the Issue of his Body lawfully begotten on the Body of any second Wife which he shall happen to marry with; and for want of such Issue, I give the said Lands and Tenements unto *John Melling* my Son, and his Heirs for ever: Provided that it shall be lawful for my said Son *Bernard* to make unto any such second Wife a Joynture of all and every the said Premisses, which she may enjoy during her Life.

The last Will and Testament of the Ancestor.

Prout p eadem Testamentum & ulc Voluntat Jur hic in evidend ostens plenius apparet Et Jur pdict ulterius dic sup Sacramentum suum pdict quod pdict Robertus Melling Pater postea & ante infrascript tempus quo &c. scilicet primo die Maij Anno Domini Millesimo sexcentesimo quinquagesimo quarto apud Somerlepton pdict obijt de tenitis pdcis cum ptin sic inde seisit Quodq; pdict Bernardus tempore confeccon Testamenti & ulc Voluntat pdict Roberti pris fuit conjunct in Matrimonio cum quadam Elizabetha Uxore sua prima & post mortem Roberti Patris sui in tenta pdca intravit & fuit inde seisit Et Jur pdict ulterius super Sacramentum suum pdict dicunt quod postea in vita pdict Elizabethe prime Uxoris ejus & ante infrascript tempus quo &c. scilicet tertio die Octobris Anno Regni Dnd Caroli Secundi nunc Regis Anglie &c. decimo sexto quidam Johannes Kant & Thomas Tye prosecut fuer extra Cur Cancellar Dnd Regis pdict apud Westm in Com Midd tunc existen quoddam Breve de Ingressu super disseisam in le post versus pfat Bernardum Melling p nomen Bernardi Melling Gen de pmissis p nomen trium Messuagiorum trium Gardinorum quatuordecim Acrarum Terre & quatuor Acrarum Pasture cum ptin in Somerlepton & Herringfleet Vicecom pdict Com Suffolc direct p quod quidem Breve idem Dominus Rex tunc Vicecom pcepit quod idem tunc Vicecom pciperet pfat Bernardo Melling quod juste & sine dilone redderet pfat Johanni Kant & Thome Tye tenta pdict cum ptin p nomina trium Messuagiorum trium Gardinorum quatuordecim Acrarum Terre & quatuor Acrarum Pasture cum ptin in Somerlepton & Herringfleet que clam esse jus & hereditat suam Et in que idem Bernardus non habet ingressum nisi post disseisam quam Hugo Hunt inde injuste & sine Judicio fecit pfat Johanni & Thome infra triginta annos tunc ultime elaps &c. ut tunc dixit Et inde tunc querebantur quod pdict Bernardus eos inde tunc deforc &c. Et nisi fecisset & pdict Johannes Kant & Thomas Tye ipsum tunc Vicecom secur de clam suis prosequend tunc sum per bonos sum pdict Bernardum quod esset coram Justic dicti Domini Regis apud Westm a die Sci Michaelis in tres septimanas tunc primo sequen quare non fecisset Et quod idem Vicecom haberet tunc ibi sum & Breve illud Ad quas quidem tres septimanas Sci Michaelis coram Orlando Bridgman Mil & Socijs suis tunc Justic dicti Domini Regis de Banco apud Westm tam pdict Johannes Kant & Thomas Tye quam pdict Bernardus in proprijs personis suis Et Franciscus Theobald Armig tunc Vicecom pdict Com Suffolc existen retorn Breve pdict sibi in forma pdict direct in omnibus servit & execut videlt quod pdict Johannes Kant & Thomas Tye invenissent eidem Vicecom Pleg de prosequend Breve suum pdict scilicet Johannem Doo & Ricardum Roo Et quod pdict Bernardus sum fuit per Johannem Denn & Ricardum Fenn sup quo pdict Johannes Kant & Thomas Tye in proprijs personis suis in eadem Cur narrando versus pdict Bernardum sup Brevi suo pdicto tunc petier versus pfat Bernardum Messuag & tenta pdicta cum ptin ut jus & hereditatem suam Et in que idem Bernardus non habet ingressum nisi post disseisam quam Hugo Hunt inde injuste & sine Judicio

Recovery.

Writ of Entry in *le post* sued out.

The Writ of Entry set forth.

Retorn of the Writ of Entry.

Recuperar'.

Judicio sec pfat Johanni & Thome infra triginta annos &c. Et inde tunc dixit quod ipsimet fuer seisit de tentis pdictis cum pertin in dominico suo ut de feodo & jure tempore pacis tempore Domini Regis nunc capiend inde exples ad valenc &c. Et in que &c. Et inde tunc produxit sectam &c. Et pdict Bernardus in propria persona sua ven & defend jus suum quando &c. Et voc inde ad Warr Georgium Humston qui tunc psens fuit in eadem Cur in propria persona Et gratis tenta pdca cum ptin ei Warr &c. Et supinde pd Johannes & Thomas pet versus pdict Georgium Humston tenen per Warr suam tenta pdca cum ptin in forma pdca &c. Et unde tunc dixit quod ipsimet fuer seisit de tentis pdictis cum ptin in dominico suo ut de feodo & jure tempore pacis tempore Domini Regis nunc capiens inde exples ad valenciam &c. Et in que &c. Et inde produc sectam &c. Ple. Vouchee.

Et pdict Georgius tenens p Warr suam defend' jus suum quando &c. Et dixit quod pdict Hugo non desseisivit pfat Johannem & Thomam de tentis pdictis cum ptin &c. prout ijdem Johannes & Thomas p Breve & Narracionem sua pdicta superius supposuer Et de hoc posuit se super priam Et pdict Johannes & Thomas pet licenciam inde interloquendi & huer &c. Et postea pd Johes Rant & Thomas Tye reven ibm in Cur isto eodem termino in proprijs personis suis Et pdict Georgius licet solempnie exact non reven set in contempt Cur recessit Et defalt fec Jo consideral fuit quod pdicti Johannes & Thomas recupent seisam suam vsus pfat Bernardum de tentis pdictis cum ptin Et quod idem Bernardus habeat de terra pdict Georgij ad valenc &c. Et pdict Georgius in mia &c. Et supinde pdict Georgius & Thomas per Breve dicti Domini Regis Vicecom Com pdict dirigend de habere faciend eis plenariam seisam de tentis pdictis cum ptin Et eis concessum fuit retornabile ibm in Octabis Sci Martini &c. Ad quem diem ibm ven pdicti Johannes Rant & Thomas Tye in proprijs personis suis Et Vicecom videlt Franciscus Theobald Armig adtunc mand quod ipse virtute Brevis pdci sibi direct septimo die Novembris ult pterit here fecisset pfat Johi & Thome plenar seisam de tentis pdictis cum ptin prout p Breve pdict sibi Precept fuit &c. Et Jur pdict sup Sacrm suum pdict ulterius dicunt quod recuperatio pdicta fuit ad usum pdcd Bernardi & Hered & Assign suorum imppetuum quodq postea & ante infrascript tempus quo &c. pdict Elizabetha Uxor pfat Bernardi obijt sine exit de corpore suo legitime procreat quodq postea & ante infrascript tempus quo &c. scilt primo die Junij Anno Regni Dni Regis nunc vicesimo secundo idem Bernardus duxit in Uxorem suam quodq post maritagium pdict inter pdict Bernardum & Janam hic & solempnizat & ante infrascript tempus quo &c. scilt octavo die Junij Anno Regni dcd Dni Caroli Secundi nunc Regis Angl &c. vicesimo secundo p quandam Indenturam ipsius Bernardi Melling sigillo suo sigillat & Jur pdict in evidenc ostens fact inter pdict Bernardum p nomen Bernardi Melling de Magna Jeremutha in Com Norfolc Gen ex una parte & Robertum Bird & pdict Johannem Rant de Civitate Norwici Worsted-weaver ex altera parte pdict Bernardus Melling p & in consideracone Maritagij adtunc hic & solempnizat inter pdict Bernardum Melling & pfat Janam

Judgment

Breve de seisa.

Retorn.

Seisin made.

The Uses of the Recovery.

Deed of Jointure upon the Defendant.

Janam Melling tunc Uxorem suam p̄dict & p juncturâ faciend & securand (Anglice secured) eidem Jane p eandem Indenturam convenit & concessit p se Heredibus Executoribus & Assign̄ suis ad & cum p̄dict Roberto Bird & Johanne Kant Heredib; & Assign̄ suis quod p̄dict Bernardus Melling Heredes & Assign̄ sui ac omnes & singule al psona & psone & Hered & Assign̄ sui qui tunc fuer vel imposterum forent seisit de vel in tenātis p̄dcis cum ptin̄ p nomina omnium ill trium Messuagioꝝ vel Tentoꝝ p̄dict Bernardi Melling cum omnibus suis terris & ptin̄ eisdem Messuagijs sive Tentis vel cujuslibet eoꝝ spectan̄ sive cum eis tunc hic vel occupat p separal tenen̄ & firmar p̄dict Bernardi Mellinge sive eoꝝ Assign̄ scituat jacen̄ & existen̄ in Somerlepton & Herringfleet in Com̄ Suffolc abinde stavent & seisit forent de p̄dict Messuagijs Tentis Terris & omnib; al p̄missis p̄dict cum ptin̄ ad sola usus pposita & intent postea in eadem Indentura limitat expressa & declarat ac ad nullum alium usum intent vel pposit videlt ad usum p̄dict Bernardi & Jane & eoꝝ diutius viven̄ ac post decessum p̄d Bernardi & Jane & eoꝝ diutius viven̄ ad usum & hered de corpore p̄dict Bernardi & Jane legitime pcreat & pcreand & p defectu talis exitus tunc ad rectos hered ipsius Bernardi si ipse eandem Janam supviveret vera si p̄dca Jana accideret supviver p̄fat Bernardum tunc ad usum rectoꝝ hered p̄dict Jane imppetuum Et Jur p̄dict ulterius dicunt sup Sacrm̄ suum quod tenta p̄dca in Indentura p̄dca ult mencōnat & tenta p̄dca in Narracōne p̄dict mencōnat sunt una & eadem tenta & non alia nec diversa Et Jur p̄dict ulterius dicunt sup Sacrm̄ suum p̄dict quod p̄dict Bernardus postea & ante infrascript tempus quo &c. obijt sine exit de corpore suo legitime pcreat Quodq tam p̄dict Jan aquam p̄dict Johes Melling ipm̄ Bernardum supvixer & adtunc supstites & in plena vita existunt Et Jur p̄dict ulterius dicunt sup Sacrm̄ suum p̄dict quod p̄dict Jana postea & antea infrascript tempus quo &c. ptextu Indenture Stabilacōnis p̄dict ult mencōnat in tenta p̄dca cum ptin̄ intravit Et fuit inde seisit put Lex postulat Et idem Johes Melling postea scilt infrascript tertio die Octobris Anno Regni dci Dni Caroli Secundi nunc Regis Anglie &c. vicesimo secundo apud Somerlepton in Com̄ p̄dict dimisisset concessisset & ad firmam tradidisset p̄fat Ricardo Messuag & Tenta p̄dca cum ptin̄ hend & tenend eidem Ricardo & Assign̄ suis a Festo Sci Michis Archi tunc ult pterit usq finem & terminum infrascript quinq annoꝝ extunc prim̄ sequen̄ & plenarie complend & finiend virtute cujus dimissionis idem Ric̄us in tenta p̄dca cum ptin̄ intravit Et fuit inde possessionat quousq p̄dict Jana postea scilt infrascript tertio die Octobris anno ult supdicto vi & armis &c. in tenta p̄dca cum ptin̄ sup possessionem ipsius Rici inde intravit Et ipsum a firma sua p̄dicta termino suo p̄dicto inde nondum finit ejecit expulit & amovit ipmq Ricm̄ a possessione sua p̄dca inde extratenuit & adhuc extratenet sed utrum sup tota materia p Jur p̄dict in forma p̄dict compert videbitur Justic hic quod p̄dict Jana Melling est culpabilis de transgr & ejeccōne firme p̄dict necne Jur p̄dict penitus ignorant Et inde pet advisament Cur hic &c. Et si sup tota materia ill in forma p̄dicta compt videbitur Cur hic quod p̄dict Jana est culpabilis de transgr & ejeccōne firme p̄dict tunc Jur p̄dict dicunt sup Sacrm̄ suum p̄dict quod p̄dict Jana est culpabilis de transgr & ejeccōne firme p̄dict modo & forma

By Covenant to stand seized.

forma put pdict Ricardus interius versus eum queritur Et tunc assidunt dampna ipsius Ricardi occasione transgr & ejeccone illius ultra misas & custagia sua p ipm circa sectam suam in hac parte apponit ad sex denar Et p missis & custagijs illius ad quadraginta solidos Et si sup tota materia pdict in forma pdict compert videbitur Justic hic quod pdict Jana non est culpabilis de transgr & ejeccon firme interius fieri supponit tunc Jur pdict dicunt sup Sacram suum pdict quod pdict Jana non est culpabilis de transgr & ejeccone firme pdict put pdict Jana interius p se placitando allegavit Et quia Cur dicti Domini Regis hic de Judicio suo de & sup pmissis reddend nondum advisatur dies inde dat est partibus pdictis coram Domino Rege apud Westm usq; diem primo post de Judicio suo audiend Eo quod Cur dicti Dni Regis hic inde nondum &c.

Judgment pro Quer' per Twisden & Rainsford versus Hale; but it was reversed in the Exchequer-Chamber.

Trin.

Trin. 23 Car. II. Rot. 1518, vel 1578.

Whalley *versus* Tankred.

Vide *Levinz* Part II. fol. 52.

Ejectione firme.

Ebor' ss. MEmorandum quod die Veneris proximo post Crastinum Sancte Trinitatis isto eodem Termino coram Domino Rege apud Westm' ven' Johannes Whalley per Robertum Lambert Attorn' suum Et protulit hic in Cur' dicti Domini Regis tunc ibidem quandam Billam suam versus Carolum Tankred Armiger' in custodia Mar' &c. de placito transgress' & ejeccone firme Et sunt Pleg' de prosequend' scilicet Johannes Doe & Ricardus Roe que quidem Billa sequitur in hec verba scilicet Ebor' ss. Johannes Whalley queritur de Carolo Tankred Armiger' in custodia Mar' Maresc' Domini Regis coram ipso Rege existen' pro eo videlicet quod cum quidam Edwardus Mennell Ar' decimo die Aprilis Anno Regni Domini nostri Caroli Secundi nunc Regis Anglie vicesimo tertio apud Hownby in Com' p̄dict' dimisisset concessisset & ad firmam tradidisset p̄fat' Johanni decem Messuagia trescentas Acras Terre trescentas Acras Prati & trescentas Acras Pasture cum pertin' scituat' jacen' & existen' in Hownby p̄dict' in Com' p̄dict' habend' & tenend' ten̄ta p̄dca cum pertin' p̄fat' Johanni & Assign' suis a primo die Aprilis tunc ult' p̄terito usque plenum finem & terminum septem annorum extunc primo sequen' & plenarie complend' & finiend' virtute cujus quidem dimissionis idem Johannes in ten̄ta p̄dict' cum pertin' intravit & fuit inde possessionat' quousque p̄dictus Carolus postea scilicet eodem decimo die Aprilis Anno vicesimo tertio supradicto vi & armis &c. in ten̄ta p̄dca cum pertin' intravit Et ipm' Johannem a firma sua p̄dca termino suo p̄dicto inde nondum finit' ejecit expulit & amovit Et ipsum Johannem a possessione sua p̄dca inde extratenuit & adhuc extratenet Et alia enormia ei intulit contra pacem dci Domini Regis nunc ad dampnum ipsius Johannis decem librar' Et inde p̄duc' sectam &c.

Et

Et pdict Carolus p Ricardum Aston Attorn suum ven & defend vim & injur quando &c. Et dic quod ipse non est inde culpabilis Et de hoc pon se super patriam Et pdict Johannes similiter &c. Jo ven inde Jur coram Domino Rege apud Westm die Martis proximo post tres septimanas Sancte Trinitatis Et qui nec &c. Quia tam &c. Idem dies dat est partibus pdictis ibidem &c.

Postea continuat inde Process inter partes pdict de placito pdict p Jur ponit inde inter eas in respectu coram Domino Rege apud Westm usque diem Lune proximo post tres septimanas Sancti Michaelis extunc primo sequen nisi Justic Domini Regis ad Assisas in Com pdict capiend assign prius die Lune septimo die Augusti apud Castrum Ebor in Com pdict per formam Statuti &c. ven pro defectu Jur &c. Ad quem diem coram Domino Rege apud Westm ven partes pdict per Attorn suos pdict Et pfat Justic dicti Domini Regis ad Assisas coram quibus &c. Postea die & loco infracontent coram Willielmo Wilde Mil & Baron un Justic de Banco & Timotheo Littleton Mil un Baron de Scaccarij dicti Domini Regis Justic ipsius Domini Regis ad Assisas in Com Ebor capiend assign per formam Statut &c. ven tam infranominat Johannes Whalley quam infrascript Carolus Tankred per Attorn suos infracontent Et Jur Jure infra sit mencio exact similiter ven qui ad veritatem de infracontent dicend electi triat & jurat dicunt super Sacrm suum quod quidam Rogerus Meynall & Edwardus Meynall diu ante tempus infrascript quo supponitur transgression & ejeccon firme infraspec fieri scilicet decimo quinto die Julij Anno Regni Domine Elizabethe nuper Regine Anglie tricesimo octavo fuer seisit de Manerio de Hawnby in Com Ebor pdict unde tenta infraspecificat cum ptin adtunc fuer & adhuc sunt parcell in dominico suo ut de Feodo Et sic inde seisit existen ijdem Rogerus Meynall & Edwardus Meynall p quandam Indenturam suam Juratoribus pdict in evidenc dat geren dat pdicto decimo quinto die Julij Anno Regni dicte Regine Elizabethe tricesimo octavo supradicto fact inter pdcm Rogerum Meynall & Edmund Meynall per nomina Rogeri Meynall de Hawnby in Com Ebor Armigeri & Edwardi Meynall Genosi filij & hered apparen ejusdem Rogeri Meynall ex prima parte Christopherum Danby Ricardum Danby & Johannem Danby per nomina Christopheri Danby de Leighton in Com Ebor Armiger Ricardi Danby de South-Cave in Com Ebor Gen & Johannis Danby de Carthorpe in Com pdict Gen ex secunda parte & Walterum Calverley & Franciscum Slingsby per nomina Walteri Calverley de Calverley in Com Ebor Armiger & Francisci Slingsby de Civitat & Com Ebor Armigeri ex tertia parte pro & in consideracone Maritagij tunc hic & solempnizat inter pdict Rogerum Meynall & Annam Uxor ejus & pro amore & affeccone quos pdict Rogerus Meynall huit & gerebat pfat Anne Uxor ejus Et pro aliqua provisione Juncture fiend p pdicta Anna si ipsa contigeret supervivere pdict Rogerum Meynall de Terris & Hereditamentis pdict Rogeri Meynall & Edwardi

Special Verdict.

Anno 18 Eliz. the Lands setled on Marriage.

wardi Meynall in eadem Indentura mentionat in plena satisfactione omn Junctur & Dotis qual ipsa clamaret sive haberet de terris pdict Rogeri Meynall & pro amore & affectione quos pdict Rogerus Meynall & Edwardus Meynall habuer & gerebant Thome Meynall Adnepot (Anglice Grandchild) pdict Rogeri & Fil & Hered apparen pdict Edwardi Meynall & Carolo Meynall secundo Filio Edwardi Meynall & alijs de nomine Sanguine & Posteritate pdict Rogeri Meynall & Edmundi Meynall & pro & in consideratione & ad intention & proposit quod omnia Maneria Dominica Terre & Hereditament in Indentura pdict mentionat firmentur (Anglice might be settled) fore remanere & continuare in nomine Sanguine & Posteritate pdict Rogeri Meynall & Edwardi Meynall tamdiu quanquam placeret Deo Omnipotenti continuare eadem in tal modo & forma qual in Indentura pdict express & declarat sunt & pro diversis alijs causis & considerationibus eosdem Rogerum & Edm abinde moven ijdem Rogerus Meynall & Edwardus Meynall p seipsis Heredibus Executoribus Administratoribus & Assign suis & eorum quolibet convenIebant concedebant & agreabant ad & cum pfat Christofero Danby Ricardo Danby & Johanne Danby & cum eorum quolibet Executoribus Administratoribus & Assign suis quod ijdem Rogerus Meynall & Edmundus Meynall & Assign sui & omnes al persona & persone ejus & eorum Hered & Assign qui adtunc vel ad aliquod tempus tunc postea starent & essent seisit de omnibus ill suis Manerijs de Hilton Hovenby & Normanby cum pertin in Com Ebor unde tenta infraspecificat cum pertin sunt parcell adtunc & ad omnia tempora tunc postea starent & essent inde seisit ad opus & usum pdict Rogeri Meynall pro termino vite sue naturalis absque impetitione alicujus vasti & immediate post decessum ejus ad opus & usum Anne Meynall Uxor ejusdem Rogeri Meynall pro termino vite sue naturalis pro Junctura sua & in plena satisfactione omnium tal Junctur & Dotis qual eadem Anne haberet habere potuit sive clamaret ex de sive ratione status ejusdem Rogeri Meynall & immediate post decessum eorundem Rogeri Meynall & Anne Uxor ejus & eorum diutius viven ad opus & usum Edmundi Meynall Filij & Hered apparen pdict Rogeri Meynall pro & durant termino nonaginta & novem annorum Si pdict Edwardus Meynall tam diu vivere contigeret absq impetitione alicujus vasti & ad finem expirationem sive ad determinationem pdict termini nonaginta & novem annor ad opus & usum pdict Walteri Calverley & Francisci Slingsby & Hered suorum pro vita ejusdem Edmundi Meynall in fiducia ad supportand & preservand contingen usus & status in eadem Indentura limitat ne forent preventac & destruct & intentiones facere pro ista proposito prout causa requiret nihilominus permittere predict Edmundum Meynell & Assign suos habere & recipere reddit & proficua pmissorum durant vita sua & immediate ab & post decessum predict Edmundi Meynall ad opus & usum Thome Meynall Adnepotis (Anglice Grandchild) pdict Rogeri Meynall & Filij & Hered apparen pdict

By Covenant to stand seized to Uses.

The Uses.

pdicti Edmundi Meynall pro & durand termino nonaginta & novem annorum si pdict Thomas Meynall tam diu vivere contiger Absque impetitione alicujus vasti & ad finem expirationem sive al determinationem pdict termini nonaginta & novem annorum ad opus & usum pdict Walteri Calverley & Francisci Slingsby & Hered suorum pro vita predict Thome Meynall in fiducia ad supportand & preservand contingend usus & status in Indentura predict limitat ne forent preventat & destruct & facere intracon pro isto proposito ut casus requireret nihilominus permittere pdict Thomam Meynall & Assign

Limitation to preserve the contingent Uses,

suos habere & recipere reddit & proficua premissorum predict durand vita sua & immediate post ejus decessum ad opus & usum primogeniti Filij de corpore predict Thome Meynall legitime procreand & Hered masculorum de corpore talis primogeniti Filij legitime procreand & pro defectu talis exitus ad

To the eldest Son, and to his 1 Son in Tail male.

opus & usum secundi Filij pdict Thome Meynall de corpore ejusdem Thome legitime procreand & Hered masculorum de corpore talis secundi Filij legitime procreand Et pro defectu talis exitus ad opus & usum tertij Filij pdict Thome

2 Son in Tail male.

Meynall & Hered masculorum de corpore talis tertij Filij legitime procreand Et pro defectu talis exitus ad opus & usum quarti Filij de corpore pdict Thome Meynall legitime

3 Son in Tail male.

procreand & Hered masculorum de corpore talis quarti Filij legitime procreand Et pro defectu talis exitus ad opus &

4 Son in Tail male.

usum quinti sexti septimi octavi noni decimi undecimi duodecimi & tertij decimi Filij de corpore predict Thome Meynall legitime procreand & Hered masculorum de corporibus talium Filiorum legitime procreand seperaliter respective & successive unius post alterum ut essent in senioritate etatis senior Hered mascul existend prefat ante minorem Hered mascul Et pro defectu talis exitus ad opus & usum Caroli Meynall secundi Filij pdicti Edmundi Meynall pro & durand termino nonaginta & novem annorum si pdict Carolus Meynall tamdiu vivere contigeret Absque impetitione alicujus vasti & ad finem expirationem sive al determinationem predict termini nonaginta & novem annorum ad opus & usum predict Walteri Calverley & Francisci Slingsby & Hered suorum pro termino vite predict Caroli Meynall in fiducia ad supportand & preservand contingend usus & status in Indentura predict mentionat ne forent preventat & destruct & facere intrationes ad istum propositum prout casus requireret nihilominus permittere pdict Carolum Meynall & Assign suos habere & recipere

5 Son in Tail male.

6, 7, 8, 9, 10, 11, 12, 13. Sons.

reddit & proficua premissorum durante vita sua Et immediate post decessum ejusdem Caroli Meynall ad opus & usum primogeniti Filij de corpore predict Caroli Meynall legitime procreand & Hered masculorum de corpore talis primogeniti Filij legitime procreand Et pro defectu talis exitus ad opus &

To a second Son, and to his first Son in Tail male.

usum secundi Filij de corpore predict Caroli Meynall legitime procreand & Hered masculorum de corpore talis secundi Filij legitime procreand Et pro defectu talis exitus ad opus & usum tertij Filij de corpore predict Caroli Meynall legitime procreand & Hered masculorum de corpore talis tertij Filij

2 Son.

3 Son.

legitime procreand' Et pro defectu talis exitus ad opus & usum quarti Filij de corpore predict' Caroli Meynall legitime procreand' & Hered' masculorum de corpore talis quarti Filij legitime procreand' Et pro defectu talis exitus ad opus &

4 Son.

usum quinti sexti septimi octavi noni decimi undecimi duodecimi & tertij decimi Filij de corpore predict' Caroli Meynall legitime procreand' & Hered' masculorum de corporibus tal' Filiorum legitime procreand' separaliter respective & successive unius post alterum ut essent in senioritate etatis senior Heres masculus existen' prefat' ante minorem Hered' masculum Et pro defectu talis exitus ad opus & usum Rogeri Meynall

5, 6, 7, 8, 9, 10, 11, 12, 13 Sons.

Gen' Filij predict' Rogeri Meynall partis Indentura predict' pro & durant' vita natural' predict' Rogeri Meynall Filij Absque impetitione alicujus vasti & post ejus decessum ad opus & usum Willielmi Meynall Gen' al' Filiorum predicti Rogeri Meynall partis predict' pro & durant' termino vite sue naturalis Absque impetitione alicujus vasti Et immediate post decessum predicti Willielmi Meynall ad opus & usum tertij Filij de corpore predicti Edmundi Meynall legitime procreand' & Hered' masculorum de corpore talis tertij Filij legitime procreand' Et pro defectu talis exitus ad opus & usum quarti Filij predicti Edmundi Meynall legitime procreand' & Hered' masculorum de corpore talis quarti Filij legitime procreand' Et pro defectu talis exitus ad opus & usum quinti sexti septimi octavi noni decimi undecimi duodecimi & tertijdecimi Filij de corpore predicti Edmundi Meynall legitime procreand' & Hered' masculorum de corporibus tal' filiorum legitime procreand' seperaliter respective & successive unius post alterum ut essent in senioritate senior Heres masculus existen' prelat' ante juniorem Hered' masculum Et pro defectu talis exitus ad opus & usum primogeniti Filij de corpore predict' Rogeri Meynall Filij predicti Rogeri Meynall partis Indenture predict' & Hered' masculorum de corpore talis primogenti Filij legitime procreand' Et pro defectu talis exitus ad opus & usum secundi Filij de corpore p'dict' Rogeri Meynall Filij & Hered' masculorum de corpore talis secundi Filij legitime procreand' Et pro defectu talis exitus ad opus & usum tertij Filij de corpore predict' Rogeri Meynall Filij & Hered' masculorum de corpore talis tertij Filij legitime procreand' Et pro defectu talis exitus ad opus & usum quarti Filij de corpore predict' Rogeri Meynall Filij & Hered' masculorum de corpore talis quarti Filij legitime procreand' Et pro defectu talis exitus ad opus & usum quinti sexti septimi octavi noni decimi undecimi duodecimi & tertijdecimi Filij predict' Rogeri Meynall Filij legitime procreand' & Hered' masculorum de corporibus talis Filiorum legitime procreand' seperaliter respective & successive unius post alterum ut essent in senioritate etatis senior Heres masculus existen' prelat' ante juniorem Hered' masculum de seperalibus corporibus suis Et pro defectu talis exitus ad opus & usum primogeniti Filij de corpore predict' Willielmi Meynall Filij predict' Rogeri partis Indenture predict' & Hered' masculorum de corpore talis

Remainders over.

lis primogeniti Filij legitime procreand Et pro defectu talis exitus ad opus & usum secundi Filij de corpore predict Willielmi Meynell legitime procreand & Hered masculorum de corpore talis secundi Filij legitime procreand Et pro defectu talis exitus ad opus & usum tertij Filij de corpore predict Willielmi Meynall legitime procreand & hered masculorum de corpore talis tertij filij legitime procreand Et pro defectu talis exitus ad opus & usum quarti Filij de corpore predict Willielmi Meynall legitime procreand & hered masculorum de corpore talis quarti Filij legitime procreand Et pro defectu talis exitus ad opus & usum quinti sexti septimi octavi noni decimi undecimi duodecimi & decimi tertij Filij predict Willielmi Meynall legitime procreand & hered masculorum de corporibus talis Filiorum legitime procreand seperaliter respective & successive unus post alterum ut essent in seniorizitate etatis senior heres masculus existend prelat ante juniorem heredes masculum predict seperalium corporum suorum Et pro defectu talis exitus ad opus & usum rect Hered & Assign predicti Rogeri Meynall partis Indenture predict imperpetuum.

Then to the use of the right Heirs of the Grantor.

Et Juratores predict super Sacramentum suum predict ulterius dicunt quod predict Rogerus Meynall senior habuit exie de corpore suo legitime procreat predictos Edmundum partem ad Indentur predict Rogerum & Willielmum Filios suos Et Juratores predict super Sacramentum suum predict ulterius dicunt quod predict Edmundus Meynall Filius predict Rogeri Meynall habuit exie de corpore suo super corpus Thomasine prima Uxoris sue legitime procreat predictos Thomam & Carolum Filios suos Et super corpus Elizabethe secunde Uxoris sue legitime procreat Robertum Edmundum & Johannem Filios suos Et Juratores predicti super Sacramentum predict ulterius dicunt quod predict Rogerus Meynall senior & Anna Uxor ejus octavo die Septembris Anno Domini Millesimo sexcentesimo primo obiet Et Juratores predict super Sacramentum suum predict ulterius dicunt quod predict Thomas Meynall Filius predict Edmundi Meynall per prefat Thomasinam Uxorem suam postea scilicet primo die Maij Anno Domini Millesimo sexcentesimo & decimo obijt sine exie de corpore suo Et Juratores predict super Sacramentum suum predict ulterius dicunt quod predict Edmundus Meynall senior postea scilicet primo die Junij Anno Domini Millesimo sexcentesimo decimo septimo obijt Et Juratores predict super Sacramentum suum predict ulterius dicunt quod Rogerus Meynall junior Filius predict Rogeri Meynall postea scilicet primo die Maij Anno Domini Millesimo sexcentesimo vicesimo scilicet obijt Et Juratores predict super Sacramentum suum predict dicunt quod predict Williehnus Meynall Filius predict Rogeri Meynall senior postea scilicet vicesimo die Junij Anno Domini Millesimo sexcentesimo vicesimo quinto obijt Et Juratores predict super Sacramentum suum predict ulterius dicunt quod predict Robertus Meynall Filius predict Edmundi Meynall

Iury draws down Title to the Lessor of the Plaintiff.

nall senioris postea scilicet vicesimo tertio die Julij Anno Domini Millesimo sexcentesimo quinquagesimo obijt sine exit de corpore suo Et Juratores predict super Sacramentum suum predict ulterius dicunt quod predict Edmundus Meynall junior Filius prefat Edmundi Meynall senioris postea & ante inframencionat tempus quo supponitur transgress & ejectionem firme infraspecificat fieri scilicet vicesimo octavo die Augusti Anno Domini Millesimo sexcentesimo sexagesimo primo obijt relinquen tempore mortis sue infranominat Edmundum Meynall modo dimissor Querentis exit de corpore suo legitime procreat qui quidem Edmundus modo dimissor Querentis adtunc fuit & adhuc existit Infans infra etatem viginti & unius annorum Et Juratores predict super Sacramentum suum predict ulterius dicunt quod predict Carolus Meynall Filius predict Edmundi Meynall senioris per quandam Indenturam suam execut cum deliberacone & seizina (Anglice with Livery and Seisin) geren dat decimo quarto die Octobris Anno Dni Millesimo sexcentesimo quinquagesimo sexto fact inter eundem Carolum Meynall per nomen Caroli Meynall de Howby in Com Ebor Armigeri ex una parte & infranominat Carolum Tankred modo defend per nomen Caroli Tankred junioris de Arden in dicto Comitatu Gen ex altera parte pro certa denarior summa concedebat barganizabat vendidebat alienabat enfeoffabat & confirmabat prefat Carolo Tankred Hered & Assign suis imperpetuum tenta infraspecificat cum pertin habend & tenend tenta infraspecificat cum pertin prefat Carolo Tankred Hered & Assign suis imperpatuum ad opus & usum ejusdem Caroli Tankred Hered & Assign suorum imperpetuum Et quod predict Carolus Meynall & quidam Willielmus Comendel postea scilicet Termino Sancti Hillarij Anno Domini Millesimo sexcentesimo quinquagesimo sexto supradicto in Cur de Banco apud Westm coram Oliver St. John Edwardo Atkins Matheo Hale & Hugone Windham Justic & al ibidem presentibus levavet Finem de tentis infraspecificat cum pertin per nomina quatuor Messuagiorum trium Cotagiorum duorum Molendinorum duorum Gardinorum quadraginta acrarum Terre quadraginta acrarum Prati quatuor mille acrarum Pasture & Communiam Pasture pro omnibus Averijs cum pertin in Howby prefat Carolo Tankred & Heres suis per quem quidem finem predict Carolus Meynall & Willielmus recogn predict tenta & Communiam Pasture cum pertin esse jus ipsius Caroli Tankred ut ill que idem Carolus habet de dono predict Caroli Meynall & Willielmi Et ill remiset & quiet clam de predict Carolo Meynall & Willielmo & Hered suis prefat Carolo Tankred & Hered suis imperpetuum Et preterea predict Carolus Meynall concessit pro se & Heredibus suis quod ipse Warrant prefat Carolo Tankred & Heredibus suis predict tenta & Communiam Pasture cum pertin contra ipsum predict Carolum Meynall & Hered suos imperpetuum Et preterea predict Willielmus concessit pro se & Hered suis quod ipsi Warrant prefat Carolo Tankred & Hered suis predict tenta & Communiam Pasture cum pertin contra predict Willielmum & Hered

Jury find one of the Sons in Tail made a Feofment to the Defendant 1656.

And a Fine levied with Proclamations.

Hered suos imperpetuum super quem quidem finem Proclamacone habit & fact fuer in eadem Cur juxta formam Statuti in hujusmodi Casu edit & provis in forma sequen videlicet prima Proclamacio fact fuit duodecimo die Februarij Termino Sancti Hillarij Anno Domini Millesimo sexcentesimo quinquagesimo sexto secunda Proclamacio fact fuit secundo die Maij Termino Pasche Anno Domini Millesimo sexcentesimo quinquagesimo septimo tertia Proclamacio fact fuit sexto die Julij Termino Sancte Trinitatis Anno Domini Millesimo sexcentesimo quinquagesimo septimo quarta Proclamacio fact fuit vicesimo die Octobris Anno Domini Millesimo sexcentesimo quinquagesimo septimo qui quidem Finis levat fuit ad usum p̄dict Caroli Tankred & Hered suorum Et Juratores p̄dict super Sacramentum suum p̄dict ulterius dicunt quod p̄dict Edmundus Meynall Pater p̄dict Edmundi Meynell modo dimissor querentis p̄dicto tempore levacionis Finis p̄dict necnon tempore sigillacionis deliberacionis & execucionis Indenture p̄dict modo & forma p̄dict inter p̄fat Carolum Meynall & p̄fat Carolum Tankred ut p̄fertur fact fuit plene etatis Et Jur p̄dict super Sacramentum suum p̄dict ulterius dicunt quod p̄dict Carolus Tankred postea & ante inframencionat tempus quo supponitur transgress & ejeccone firme infraspecificat fieri in ten̄ta infraspecificat cum ptin̄ intravit & fuit inde seisit prout lex postulat Et Jur p̄dict super Sacramentum suum p̄dict ulterius dicunt quod p̄dict Carolus Meynall postea & ante inframencionat tempus quo supponitur transgress & ejeccon̄ firme p̄dict fieri scilt decimo octavo die Martij Anno Dn̄i Millesimo sexcentesimo sexagesimo quarto obijt sine exit masculo de corpore suo relinquen̄ filiam suam Mariam tunc & adhuc in plena vita existen̄ Et Jur p̄dict super Sacramentum suum p̄dict ulterius dicunt quod p̄dict Edwardus Meynall modo dimissor queren̄ postea scilt inframencionat decimo die Aprilis Anno Regni Dn̄i Caroli Secundi nunc Regis Angl &c. vicesimo tertio infraspecificat cum ptin̄ intravit Et eadem ten̄ta cum ptin̄ dimisit concessit & ad firmam tradidit p̄fat Johanni Whalley habend & tenend ten̄ta p̄dca cum ptin̄ p̄fat Johanni Whalley & Assign̄ suis a primo die Aprilis tunc ulterius p̄terit usque plenum finem & terminum septem annorum extunc px' sequen̄ & plenarie complend & finiend virtute cujus quidem dimissionis idem Johannis Whalley in ten̄ta p̄dict cum ptin̄ intravit & fuit inde possessionat quousque p̄dict Carolus Tankred postea scilt eodem decimo die Aprilis Anno vicesimo tertio sup̄dicto in ten̄ta p̄dca cum ptin̄ intravit Et ipsum Johannem a firma sua p̄dca termino suo p̄dco inde nondum finit ejecit expulit & amovit Et ipm̄ Johannem a possessione sua p̄dca inde extratenuit Et adhuc extratenet Sed utrum super tota materia p̄dict per Jur p̄dict in forma p̄dict compert p̄dict Carolus Tankred sit culpabilis de transgress & ejeccone firme infraspecificat necne Jur p̄dict penitus ignorant Et inde petunt advisamentum Cur dicti Domini Regis coram ipso Rege apud Westm̄ Et si videbitur p̄dict Cur dicti Domini Regis quod p̄dict Carolus Tankred est culpabilis de transgress & ejeccone firme infraspecificat tunc Jur p̄dict super Sacramentum suum dicunt quod p̄dict Carolus Tankred

Proclamations.

That the Father of the Plt' was then of full Age.

Defendant intravit.

The Bargainer died without Issue-male of his body, 1674.

That the Lessor of the Plt' entred 23 C. 2.

And made the Lease to the Plaintiff.

Upon whom the Defendant entred.

kred est culpabilis de transgress & ejeccone firme infraspecificat prout pdict Johannes Whalley interius versus eum queritur. Et tunc Jur pdict assident dampna ipsius Johannis Whalley occasione transgress & ejeccon firme infraspec ultra misas & custagia sua per ipsum circa sectam suam in hac parte apposit ad duodecim denar. Et pro misis & custagijs ill ad quadraginta solidos. Et si videbitur Cur dict Domini Regis pdict quod pdict Carolus Cankred non est culpabilis de transgress & ejeccone firme infraspecificat tunc Jur pdict super Sacramentum suum pdict dicunt quod pdict Carolus Cankred non est culpabilis de transgress & ejeccon firme infraspec prout idem Carolus interius placitando allegavit Jō &c.

Judic' pro Quer'. Vide le Report.

Hill

Hill. 2 W. & M. C. B. Rot. 420. Intrat'. *Cooke.*

Carter *versus* Madgwicke.

Levinz Part III. fol. 339.

Sussex ss. Edwardus Madgwicke nup de West-Hampnet in Com̄ p̄dict Gen̄ attach fuit ad respondend Thome Carter de p̄lito quare vi & armis 4 Messuagia 5 Horrea 140 Acras terre 50 Acras pasture 10 Acras prati & 5 Acras bosci cum ptiñ in Parochia de Pagham & Goring in Com̄ p̄dict que Johes Bennett Gen̄ eidem Thome dimisit ad termin̄ qui nondum p̄terit intravit Et ipsum a firma sua p̄dict ejecit Et al̄ enormia ei intulit ad grave dampn̄ ipsius Thome & contra pacem Dom̄ Regis & Dom̄ Regine nunc &c. Et unde idem Thomas per Ric̄ Robinson Attorn̄ suum queritur qđ p̄dict Johes primo die Aprilis anno Regni dictorum Dom̄ Regis & Dom̄ Regine nunc secundo apud Parochiam p̄dict dimisit eidem Thome tenementa p̄dict cum ptiñ habend & tenend tenementa p̄dict cum ptiñ eidem Thome & Assignati suis a 25 die Marcii tunc ult p̄terit usq; plenum finem & termin̄ quinq; annorum extunc prox. sequend plenarie complend & finiend virtute cujus quidem dimissionis idem Thomas in tenementa p̄dict cum ptiñ intravit & fuit inde possessionat Et sic inde possessionat existend p̄dict Edr'us postea scilt eodem primo die Aprilis anno scđo supradicto apud Parocham p̄dict in tenementa p̄dict cum ptiñ que p̄dict Johes eidem Thome in forma p̄dict dimisit ad termin̄ p̄dict qui nondum p̄teriit intravit & ipsum a firma sua p̄dict ejecit Et alia enormia &c. Ad grave dampn̄ Et contra pacem &c. unde dic qđ deteriorat est Et dampn̄ het ad valentiam 10 l. Et inde produc sectam &c. *Ejectio' Firme.*

Et p̄dict Edrus per Nicholaum Covert Attorn̄ suum ven̄ & defend vim & injur' quando &c. Et dic qđ ipse in nullo est culpabilis de transgressione & ejectione p̄dict put p̄dict Thomas supius v̄sus eum queritur Et de hoc pon̄ se super Patriam Et p̄dict Thomas scilt Jđ preept est Vic qđ Venire Fac hic in Octab Purificationis beate Marie duodecim &c. p quos &c. Et qui nec &c. Ad recogn̄ &c. Quia tam &c. Ad quem diem hic ven̄ partes &c. Et Vic non mis breve Jđ sicut prius fiat ei aliud breve inde in forma p̄dict returnabil hic a die Pasche in quindecim dies ad recogn̄ in forma p̄dict &c. Ad quem diem hic ven̄ partes &c. Et Vic non mis. breve Jđ sicut prius fiat ei aliud b̄re inde in forma p̄dict retornabil hic a die Scē Trinitatis in tres Septimanas Ad recogn̄ in forma p̄dict &c. Ad quem diem hic ven̄ Jur' inter partes p̄dict de p̄dict p̄lito pon̄ fuit inde inter eas in respec' hic usq; ad hunc diem scilt A die Scī Michaelis in tres Septimanas tunc prox. sequen̄ Nisi Justic Dom̄ Regis & Dom̄ Regine ad Assisas in Com̄ p̄dict capiend assign̄ p formam Statuti &c. die Sabbati 22 die Augusti prox. p̄teric' apud Horsham in Com̄ p̄dict prius ven̄ Et modo hic ad hunc diem ven̄ tam p̄dict Thomas quam p̄dict Edrus p Attorn̄ suos p̄dict Et p̄fat Justic ad Assisas coram &c. mis hic recordum suum in hec v̄ba Sussex ss. Postea die & loco infracontent coram Willo Dolben un̄ Justic Dom̄ Regis & Dom̄ Regine ad p̄lita coram ipsis Rege & Regina tenend assign̄ Justic ipsor̄ Dom̄ Regis & Dom̄ Regine ad Assisas in Com̄ Sussex p̄dict capiend assign̄ Associat sibi Edwardo Lanceloto Lee p formam Statuti &c. ven̄ tam infranominat Thomas Carter quam infrascript Edrus Madgwicke p Attorn̄ suos infracontent Et Jur' Jur' unde infra fuit mencō exact similiter ven̄ Qui ad v̄itatem de infracontent dicend elect triat & jurat quoad 2 Messuagia 2 Horrea 40 Acras *Non Culpab'.* *Special Verd'*

terre & 10 Acras pasture cum ptin in Parochia de Goreing infrascript in Com predict de tenementis infraspecificat cum ptin pcell dic sup sacrm suum qd predict Edrus Madgwicke non est culpabilis de transgressione & ejectione infrascript put idem Edrus Madgwicke intius inde placitando allegavit Et quoad infrascript transgression & ejection in 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris pti & 5 Acris bosci cum ptin in Parochia de Pagham infrascript in Com predict de tenementis infrascript cum ptin resid iidem Jur ulterius dic sup sacrm suum predict qd diu ante infrascript tempus quo transgr & ejecco infranominat intius fieri supponitur scilt 18 die Decembs anno regni Jacobi scdi nup Regis Angl &c. scdo quidam Willmus Parker seisit fuit inl al in dominico suo ut de feodo de & in predict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham predict Quodq; idem Willus Parker de predict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham sic seisit existens Idem Willus Parker postea & ante predict tempus quo &c. scilt predict 18 die Decembs anno scdo Regni nup Regis Jacobi scdi suprad fecit & ut factum suum delibavit quandam Indenturam suam sub sigillo suo sigillat int ipsum pfat Willm Parker p nomen Willi Parker de Pagham in Com Sussex Gen ex una parte & infranominat Johan Bennett Lessor quer p nomen Johis Bennett filii Johis Bennett nup de Pagham predict Gen & Nepotem anglice Grandchild dicti Willi Parker ex alta parte fact geren dat dicto 18 die Decembs anno scdo suprad & in Cur dictor domini Regis & domine Regine cancell debo modo infra sex menses tune px' sequend irrotulat Tenor cujus quidem Indenture sequit in hec Vba & figuras

Settlement by Bargain & Sale inrolled, in Tail Male, to the Lessor of the Plaintiff.

This Indenture made the Eighteenth day of *December*, in the Second year of the Reign of our Sovereign Lord *James* the Second, by the Grace of God King of *England*, *Scotland*, *France* and *Ireland*, King Defender of the Faith, *&c. Annoq; Domini 1686.* between *William Parker* of *Pagham* in the County of *Sussex* Gent. of the one part; and *John Bennett*, Son of *John Bennett* late of *Pagham* aforesaid, Gent. and Grandchild of the said *William Parker*, of the other part: Witnesseth that the said *William Parker*, for and in consideration of the Natural Love and Affection which he hath and beareth to the said *John Bennett* his Grandson, and for and in consideration of the Sum of Five Shillings of good and lawful Money of *England* to him in hand paid by the said *John Bennett* before the Insealing and Delivery hereof, the Receipt whereof the said *William Parker* doth acknowledge, and thereof doth acquit, exonerate and discharge the said *John Bennett*, his Heirs, Executors and Administrators for ever, by these Presents, hath granted, bargained and sold, and by these Presents doth freely, clearly and absolutely grant, bargain and sell unto the said *John Bennett*, his Heirs and Assigns; All that his Mansion-house, with all Barns, Stables, Out-houses, Edifices, Buildings, Gate-rooms, Courts, Yards, Orchards, Arable-lands, Pastures, Meadows, Feedings, Woods, Underwoods, Timber and Trees, Commons, Profits and Appurtenances whatsoever, to the said Mansion-house belonging or appertaining; together with a Close of Land thereunto adjoining, heretofore purchased of one *John Bennett* late of *Bagnor* deceased: All which Premisses are called, or known by the name or names of *Burrs and Hooks*, and are situate, lying and being in *Pagham* aforesaid; and now are, or late were in the Tenure or Occupation of the said *William Parker*, his Assignee or Assigns: And all the State, Right, Title, Interest, Possession, Reversion, Use, Property, Claim and Demand whatsoever of him the said *William Parker*, of, in, and to the said bargained Premisses, and of, in, and to any part or parcel thereof; and the Reversion and Reversions, Remainder and Remainders thereof, and of every part or parcel thereof; To have and to hold the said Mansion-house, Barns, Stables, Edifices, Buildings, Out-houses, Gardens, Orchards, Lands, Meadows, Feedings, Pastures, Woods and Premisses, with all and singular their and every of their Appurtenances, from and immediately after the death of the said *William Parker*, unto the said *John Bennett*, and the Heirs of

of his Body lawfully begotten: And for want of such Issue to *William Bennett*, another of the Grandchildren of the said *William Parker*, and the Heirs of his Body lawfully begotten; and for want of such Issue, to *Ann* the Wife of *Edward Madgwicke*, the younger Daughter of the said *William Parker*, and Mother to the said *John* and *William Bennett*, and the Heirs of her Body; and for want of such Issue, to *Hugh Vincent* Nephew of the said *William Parker*, and his Heirs and Assigns for ever; and to and for none other Use, Intent or Purpose whatsoever. In witness whereof the Parties to these Presents have hereunto set their Hands and Seals the Day and Year first above-written. Prout p eandem Indentur' sic ut pfert irrotulat pfat Justic' & Jur' pdict modo hic ostens Lect & in evidencia dat plenius liquet & apparet. Et Jur' pdict ulterius dic' sup sacr suo pdict qd pdict Wills Parker de tenementis pdict cum ptin in Parochia de Pagham pdict ut pfert seisit existen postea & ante pdict tempus quo &c. scilt pdict 18 die Decembris anno scdo Regni dicti nup Regis Jacobi Scdi supdicto scilt fecit & ut factum suum deliberavit quandam al Indenturam suam sub sigillo suo sigillat int ipsum pfat Willm Parker p nomen Willi Parker de Pagham in Com Sussex Gen ex una parte & pdict Johem Bennett Lessor' Quer' p nomen Johis Bennett nup de Pagham pdict Gen defunct & Nepotem anglice Grandson dicti Willi Parker ex altera parte fact geren dat dicto 18 die Decembris anno scdo supdicto & in dicta Cur' dictor domini Regis & domine Regine Cancellar' infra sex menses tunc px' sequen debito modo irrotulat Tenor cujus quidem Indenture sequit in hec verba & figuras. This Indenture made the Eighteenth day of *December*, in the Second year of the Reign of our Sovereign Lord *James* the Second, by the Grace of God King of *England*, *Scotland*, *France* and *Ireland*, Defender of the Faith, *&c.* *Annoq; Domini 1686.* Between *William Parker* of *Pagham* in the County of *Sussex* Gent. of the one part; and *John Bennett*, Son of *John Bennett*, late of *Pagham* aforesaid Gent. deceased, and Grandson of the said *William Parker*, of the other part: Witnesseth that the said *William Parker*, for and in consideration of the Natural Love and Affection which he hath and beareth to the said *John Bennett*, his Grandson: And for and in consideration of the Sum of Five Shillings of good and lawful Money of *England* to him in hand paid by the said *John Bennett* before the Insealing and Delivery hereof; the Receipt whereof, and of every part thereof, the said *William Parker* doth hereby acknowledge, and thereof and of every part thereof, doth acquit, exonerate and discharge the said *John Bennett*, his Heirs, Executors and Assigns, for ever, by these Presents, Hath granted, bargained and sold; and by these Presents doth grant, bargaiu and sell unto the said *John Bennett*, his Heirs and Assigns, All that Barn, and all those Lands, Tenements and Hereditaments called *Spicers Chambers* and *Calcers*, or by whatsoever other name or names the same are called or known by, containing by Estimation Ten Acres more or less, situate, lying and being in *Pagham* aforesaid, now or late in the Tenure or Occupation of the said *William Parker*, his Assignee or Assignees: And all the Estate, Right, Title, Inheritance, Use, Possession, Reversion, Claim and Demand whatsoever, of him the said *William Parker*, of, in and to the said Premisses, and of, in and to all or any part or parcel thereof; and the Reversion and Reversions, Remainder and Remainders thereof, and of every part and parcel thereof; To have and to hold the said Barn and Ten Acres of Land called *Spicers*, with all and singular their and every of their Appurtenances, from and immediately after the decease of the said *William Parker*, unto the said *John Bennett*, and the Heirs of his Body lawfully begotten: And for want of such Issue to *William Bennett*, another of the Grandchildren of the said *William Parker*, and the Heirs of his Body lawfully begotten; and for want of such Issue, then to *Ann* the Wife of *Edward Madgwicke* Gent. Daughter of the said *William Parker*, and Mother of the said *John Bennett* and *William Bennett*, and her Heirs and Assigns for ever, and to and for none other Use, Intent or Purpose whatsoever. In witness whereof the Parties to these Presents, have hereunto interchangeably set their Hands and Seals the Day and Year above-written.

Settlement of other Land by Bargain & Sale on the same Parties Tail Male, to the same uses.

Prout p eandem Indenturam ult mencõnat sic ut pfert similiter irrotulat pfat Justic & Jur pdict modo hic ostens lect & in Evidenc dat plenius liquet & apparet Et Jur pdict ultius dic sup sacram suu pdict qd pdict tene-

Identities.

menta cum ptin in Parochia de Pagham pdict in Com pdict de tenementis infrascript cum ptin ut pfert resid & tenementa in separat Indentur pdict spec sunt una & eadem tenementa & non alt nec diversa Et Jur pdict ultius dic sup Sacram suu pdict qd pdict Willus Parker a tempore confectionis separat Indentur pdict p & duran toto dominico vite naturat ipsius Willi Parker & usq diem obitus sui pdict tenementa ult mencõnat in Parochia de Pagham pdict apud Parochiam de Pagham pdict in Com pdict huit tenuit & gavisus fuit

The death of the Bargainor.

Quodq idem Willus Parker postea & ante pdict tempus quo &c. scilt 20 die Martii anno Regni Dni Willi & Dne Maria nunc Regis & Regine Angl &c. scdo infrascript apud Parochiam de Pagham pdict in Com pdict obijt

That the Lessor of the Plaintiff was a Minor at the time of the Settlement, and still is.

Et Jur pdict ultius dic sup Sacram suu pdict Qd Johes Bennett Lessor Quer tempore confectionis separat Indenturar pdict fuit infra etat 21 annor Ac quod idem Johes Bennet adhuc existit infra etat 21 annor scilt etat 17 annor & non amplius

That the Wife of the Defendant is Heir at Law to the Bargainor.

Qdq Anna Madgwicke nup ux' Johis Bennet defunct Patris pdict Johis Bennett Lessor Quer & modo ux' pdict Edri Madgwicke modo Defend est filia & heres ad legem pfat Willi Parker iidemq Edrus Madgwicke & Anna post mortem pdict Willi Parker in tenementis pdict cum ptin in Pagham pdict intraver & fuer inde seisit put lex postulat

The Defendant's Entry.

Et Jur pdict ultius dicunt sup Sacram suu pdict qd pdict Johes Bennett Lessor Quer postea & ante pdict tempus quo &c. scilt 21 pdict mensis Marcii anno Regni dni Willi & dne Maria nunc Regis & Regine Angl &c. scdo supdicto in pdict 2 Mesuagia 3 Horrea 100 Acras terre 40 Acras pasture 10 Acras prati & 5 Acras bosci cum ptin in Parochia de Pagham infrascript in Com pdict de tenementis in narracõne pdict specificat ut pfert resid in & sup possession pdict Edri Madgwicke inde intravit & fuit inde seisit put lex postulat qdq Johes Bennett sic inde seisit existen postea scilt infrascript primo die

Lessor of the Plaintiffs Reentry.

And made the Lease to the Plaintiff.

Aprilis anno regni dictor dni Regis & dne Regine nunc scdo supd apud Parochiam de Pagham infrascript in Com pdict dimisit pfat Thome Carter pdict 2 Mesuagia 3 Horrea 100 Acras terre 40 Acras pasture 10 Acras prati & 5 Acras bosci cum ptin in Parochia de Pagham pdict de tenementis in narracõne pdict specificat ut pfert resid hend & tenend tenementa pdict ult mencõnat cum ptin eidem Thome Carter & Assign suis a 25 die Marcii tunc ult ptit usq pdict finem & tmin quinq annor extunc px' sequen & plenar complend & finiend virtute cujus quidem dimissionis idem Thomas Carter in tenementa pdict ult mencõnat cum ptin intravit & fuit inde possessionat quousq pdict Edrus Madgwicke postea scilt eodem primo die Aprilis anno scdo supdicto vi & armis &c. apud Pagham pdict in Com pdict in dicta 2 Mesuagia 3 Horrea 100 Acras terre 40 Acras pasture 10 Acras prati & 5 Acras bosci cum ptin in Parochia de Pagham pdict in Com pdict de tenementis in narracõne pdict specificat ut pfert resid in & sup possession

Ouster.

ipsius Thome Carter inde intravit Et ipsum a firma sua pdict ejecit Sed utrum sup tota materia pdict p Jur pdict in forma pdict compt pdict Edrus Madgwicke sit culpabilis de transgr & ejeccõne infrascript in pdict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham pdict in Com pdict de tenementis in narr pdict ut pfert resid modo & forma put pdict Thomas Carter inius vsus eum inde querit necne Jur pdict penitus ignorant & inde pet advisament & direccõn pfat Justic & Cur hic & si sup tota materia pdict p Jur pdict in forma pdict compt videbit pfat Justic & Cur hic qd pdict Edrus Madgwicke sit culpabilis de transgr & ejeccõne pdict in pdict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham pdict in Com pdict de tenementis in narr pdict ut pfert resid tunc Jur pdict dicunt sup sacram suu pdict qd pdict

Edrus

Edrus Madgwicke est culpabilis de transgr' & ejeccone infius specificat in pdict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham pdict in Com pdict de tenementis in narr pdict ut pfert reslo modo & forma put pdict Thomas Carter infius sup eum inde querit Et tunc assidunt dampna ipsius Thome Carter occasione transgr' & ejeccon ill in pdict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham pdict ultra mis & custag sua p ipsum circa sectam suam in hac parte appoit ad sex denar' & p mis & custagiis ill ad quadraginta solidos Et si sup tota materia pdict p Jur' pdict in forma pdict compt videbit pfat Justic & Cur' hic qd pdict Edrus Madgwicke non est culpabilis de transgr' & ejeccione pdict in pdict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham pdict de tenementis in narracone pdict ut pfert reslo tunc Jur' pdict dicunt sup Sacram suum pdict qd pdict Edrus Madgwicke in nullo est culpabilis de transgr' & ejeccione pdict in pdict 2 Mesuagiis 3 Horreis 100 Acris terre 40 Acris pasture 10 Acris prati & 5 Acris bosci cum ptin in Parochia de Pagham pdict in Com pdict put idem Edrus Madgwicke infius placitando allegavit Et quia pfat Justic & Cur' hic de Judicio suo de & sup pmissis reddend quoad pdict 2 Mesuagia 3 Horrea 100 Acras terre 40 Acras pasture 10 Acras prati & 5 Acras bosci cum ptin in Parochia de Pagham pdict in Com pdict de tenementis in narr' pdict ut pfert reslo nondum advisant Dies inde dat est partib pdict in statu quo nunc coram Johe Powell Mil & Thoma Rookeby Mil Justic dictor dni Regis & dne Regine de Banco A die Scdi Michis in tres Septimanas de Judicio suo inde audiend Eo qd pfat Justic & Cur' hic inde nondum &c.

Judgment pro Defendant.

Hill. 10 & 11 W. III.

Cooke.

Clark *versus* Smith.

Placita apud Westm' coram Georgio Treby Mil' & Sociis suis Justic' Dom' Regis de Banco de Termino Sancti Hillarii anno Regni domini nostri Gulielmi Tertii Dei Gratia Angl' Scoc' Franc' & Hibern' Regis fidei Defensoris,&c. decimo & undecimo.

2 *Roll*.422. the Serjeants Case. 2 *Roll*. 626. *Dyer* 124. a. 3 *Cro*.829,919. *Stiles* 149. *Hob*. 29, 31. 2 *Mod.Rep*.286. *Britton* and *Charnock*. *Pop*. 8. Sir *Tho. Jones*, 25, 113. 2 *Cro*. 304. 3 *Rep*. 21,22. 1 *Cro*. *Gilpin's* Case. Ejectment.

Roll 1257.

Lincoln' ss. Francus Smith nup de Bourne in Com pdict Tanner attach fuit ad respondend Jacobo Clark de placito quare vi & armis unum Mesuagium unum Horreum unum Stabulum unum Gardinum unum Pomarium viginti Acras terre viginti Acras prati & triginta Acras pasture cum ptin in Wicker & Wigtoft in Com pdict que Harry Cason & Maria uxor ejus & Theophilus Joyner & Martha uxor ejus eidem Jacobo dimiser ad terminum qui nondum pteriit intravit Et ipsum a firma sua pdict ejecit Et alia enormia ei intulit ad grave dampnum ipsius Jacobi Et contra pacem dni Regis nunc &c. Et unde idem Jacobus p Marcum Dickinson Attorn suum queritur qd pdict Harry & Maria Theophilus & Martha primo die Januarii anno Regni dni Gulielmi tertii nunc Regis Angl &c. nono apud

apud

apud Wicker pdict dimisissent eidem Jacobo tenementa pdict cum ptin hend & occupand tenementa pdict cum ptin eidem Jacobo & Assign suis a vicesimo quinto die Decembs tunc ult ptit usq; finem & terminum quinq; annor extunc px' sequend & plenarie complend & finiend virtute cujus dimissionis idem Jacobus in tenementa pdict cum ptin intravit & fuit inde possessionat Ipsoq; Jacobo sic inde possessionat existen pdict Francus postea scilt pdict primo die Januarii anno nono supdicto vi & armis &c. in tenementa pdict cum ptin que pfat Harry & Maria Theophilus & Martha eidem Jacobo in forma pdict dimiser ad tmin qui nondum ptiit Et ipsum Jacobum a firma sua pdict ejecit Et alia enormia &c. Ad grave dampnum &c. Et contra pacem &c. Et unde dic qd deterior est Et dampnum het ad valenciam viginti librar Et inde pduc sectam &c.

Et pdict Francus p Thomam Truesdale Attorn suum ven & defend vim & injur quando &c. Et dic qd ipse in nullo est culpabil de transgr & ejeccone pdict put pdict Jacobus supius vsus eum queritr Et de hoc pon se sup priam Et pdict Jacobus similiter Id pc est vic qd venire fac hic in Octabis Pur be Marie duodecim &c. p quos &c. Et qui nec &c. Ad recogn &c. Qui tam &c. Ad quem diem Jur int partes pdict de plito pdict posit fuit inde int eas in respectum hicusq; ad hunc diem scilt A die Pasche in quindecim dies tunc px' sequen Nisi Justic Dni Regis ad Assisas in Com pdict capiend assign p formam Statuti &c. die Lune tcio decimo die Marcii px' ptit apud Castrum Lincoln in Com pdict prius ven Et modo hic ad hunc diem ven tam pdict Jacobus quam pdict Francus p Attorn suos pdict Et pfat Justic ad Assisas coram &c. mis hic record suum in hec vba Postea die & loco infracontent coram Johe Turton Mil uno Justic Dni Regis ad plita coram ipso Rege tenend assign Et Georgio Dodson Armig eidem Johi Turton & Edro Nevill Mil uno Justic dicti Dni Regis de Banco Justic ipsius Dni Regis ad Assisas in Com Lincoln capiend assign p formam Statuti &c. hac vice associat psentia pdict Edri Nevill non expectat virtute bris dict' Dni Regis de si non omnes &c. ven tam infranominat Jacobus Clark quam infrascript Francus Smith p Attorn suos infracontent Et Jur Jure unde infra fit menco exact similit ven qui ad veritatem de infracontent dicend elect triat & jurat dicunt sup Sacram suum qd quindecim Acre terre decem Acre prati & quindecim Acre pasture cum ptin parcell tenementor in narracone infrascript inferius mencionat sunt & a tempore cujus contrarii memoria hominum non existit fuer parcell Manii de Wicker Beamont in Com Lincoln que quidem tenementa cum ptin sunt & p totum tempus pdict fuer tenementa customar Manii pdict & sunt & p totum tempus pdict fuer dimiss & dimissibil p Copiam Rotulor Cur Manii illius p Dnm ejusdam Manii p se vel Seneschallum Cur ejusdem Manii p tempore existen cuicunq; Persone vel quibuscunq; psonis ea capere volenti vel volentibus in feodo simplici vel alit ad voluntatem suam scdm consuetudinem Manii pdict Quodq; quidem Johes Smithson Clericus sextodecimo die Octobs anno Regni Dni Caroli Scdi nup Regis Angl &c. tricesimo quarto fuit seisit de eisdem tenementis cum ptin in dominico suo ut de feodo ad voluntat Dni Manii pdict scdm consuetudinem Manii illius p copiam Rotulor Cur dicti Manii sibi & heredibus suis scdm consuetudinem ejusdem Manii inde concess. Et sic inde seisit existen ad Cur Manii pdict adtunc & ibm tent sursum reddidit in manus Phonorabilis Johis Comitis Exon tunc & adhuc Dni Manii illius eadem tenementa cum ptin ad usum dicti Johis Smithson & Margarete tunc uxor' ejus p tmino vitar suar & vite eor diutius viventis & post eor decessum ad usum talis Pson & talium Psonar p tali usu & talibus usibus qual in ultima voluntate & testament ipsius Johis Smithson confect vel conficiend declarat sunt vel erint & p defectu tlis Declaracionis tunc ad usum rect hered ipsius Johis Smithson Et Jurator' pdict sup Sacram suum pdict ulterius dicunt qd idem Johes Smithson adtunc fuit etiam seisit de resid tenementor in narracone infrascript inferius mencionat cum ptin in dominico suo ut de feodo quodq; pdict Johes Smithson habuit

Breve de si non omnes.

Special Verd'.

That the lands in question are Copyhold.

Surrender to the use of a Last Will.

Freeh' Estate.

habuit exitum de corpore suo procreat Johannam Smithson filiam suam que quidem Johanna cepit in virum quendam Andream Smith qui quidem Andreas & Johanna huer exitum de corporib; suis procreat Johem Smith quidq; dicta Johanna obiit in vita Johis Smithson pris sui pdict ac in vita pdict Johis filii ejusdem Johe Et Jur pdict sup Sacram suu pdict ultius dic qd pdict Smithson de oib; & singulis tenementis & pmiss. pdict in forma pdict seisit' existen ante pdict tempus quo &c. scilt vicessimo septimo die Marcii anno Dni 1673. debo modo & scdm formam Statuti in tali casu edit & pvis condidit testamtu & ult voluntatem suam in scriptis sub manu & sigillo suis geren dat eisdem die & anno ult mencionat Juratorib; pdict in evidenciis ostens cujus quidem testamenti tenor sequitur in hec verba In the Name of God Amen, I *John Smithson* of *Irnham* in the County of *Lincoln* Clerk, being weak of Body but of perfect Memory and Understanding, praised be God for it, do make this my Last Will and Testament in manner and form following; First, I bequeath my Soul into the hands of Almighty God my merciful Father, in hopes of Acceptance with him in Jesus Christ my Saviour, and my Body to be buried with Christian Burial in the Chancel of *Irnham* aforesaid, at the Discretion of my Executrix herein after-named: And as for these Worldly Goods which God hath blessed me with, I bequeath them as followeth, *videlicet*; Whereas I have taken up my Copyhold Lands lying in *Bicker* in the Parts of *Holland* in the County of *Lincoln*, in the Name of my self and beloved Wife *Margaret*, and have surrendred it again to the use of my Last Will; I do therefore bequeath it to my said beloved Wife *Margaret* during her Natural Life, and after her decease I give Six Acres of it, such as my Executrix shall set out for that purpose, to the Vicars the Incumbents of *Bicker* for ever. *Item*, I give to my said beloved Wife all my Freehold Estate whatsoever, to be enjoyed by her during her Natural Life; and after her decease, I give both my Freehold and Copyhold Estate, excepting that Six Acres before-mentioned, to accrew to the Vicars of *Bicker*, to my next Heirs at Law, and his and their Heirs for ever. Provided such Heirs shall well and truly pay the Sum of One hundred pounds within Six Months after the decease of my said Wife, as my said Wife shall direct and appoint by her Last Will, or other legal Writing, with which One hundred pounds my Will is, That that Estate shall stand chargeable. All the rest of my Goods and Chattels whatsoever, I give to my beloved Wife, to her proper Use and Disposal, whom I make sole Executrix of this my Last Will and Testament. In witness whereof I have hereunto put my Hand and Seal this Twenty seventh day of *March* in the Year of our Lord One thousand Six hundred Seventy and three. Et postea scilt primo die Aprilis anno Dni 1683. pdict Johes Smithson de omnibus pmissis cum ptin in forma pdict seisit existen obiit post cujus quidem mortem scilt primo die Maij anno Dni 1683. supdicta pdict Margareta in tenementa pdict intravit virtute testamti pdict & fuit inde seisit & obiit vicesimo die ejusdem mensis Maii anno 1683. Et Juratores pdict ultius sup Sacram suu pdict dicunt qd pdict Johes Smith filius pdict Andree tempore mortis ejusdem Johis Smithson fuit heres dci Johis Smithson Et post mortem pdict Margarete scilt primo die Junii anno Dni Millimo sexcentimo octogesimo tcio pdict Johes Smith in tenementa pdict cum ptin intravit & fuit inde seisit put lex postulat Et sic inde seisit existen pdict Johes Smith postea scilt vicessimo octavo die Maii anno Dni 1686. obiit sine aliquo exitu de corpore suo exeun Et Juratores pdict sup Sacram suu pdict ultus dicunt qd post mortem pdict Johis Smith scilt vicesimo die Junij anno Dni 1686. pdict infranominat Francus Smith modo defend ut Consanguinens & pr' heres ejusdem Johis Smith ex parte patris sui pdict scilt ut frater & heres pdict Andree Smith patris pdict Johis Smith in tenementa pdict cum ptin intravit Et fuit inde seisit put lex postulat quodq; infranominat Maria uxor infranominat Harry Cason & infranominat Martha uxor infranominat Theophili Joyner sunt pr' heredes pdict Johis Smith ex parte pdict Joanne matris ipsius Johis Smith scilt filie Walteri Smithson fratris pdict Johis Smithson Et ultius dicunt qd iidem Harry & Maria uxor ejus & Theophi-

The Devise of the Copyhold.

The Devise of the Freehold.

Charged with the payment of 100 *l.*

Heir at Law.

Defend' next Heir on the part of the Father.

lus

lius & Martha uxor ejus post mortem predict Johis Smith in omnia & singula tenementa predict cum ptin in & sup possession dict Franc Smith in jure plat Marie & Marthe intraver & fuer inde seisit put lex postulat Et sic inde seisit existen iidem Harry & Maria uxor ejus & Theophilus & Martha uxor ejus postea scilt primo die Januarij anno Regni Dni Regis nunc nono infrascript dimiser eadem tenementa cum ptin infranominat Jacobo Clark p termino annor inframencionat virtute cujus dimissionis idem Jacobus Clark in tenementa predict cum ptin intravit & fuit inde possessionat quousq plat Francus Smith in tenementa predict cum ptin in & sup possession ipsius Jacobi intravit Et ipsum Jacobum a firmer sua predict ejecit modo & forma put predict Jacobus interius inde queritur Et si sup tota materia p Jur predict in forma predict compert videbitur Justic Dni Regis hic qd predict Francus est culpabilis de transgr & ejeccone predict in narracone predict menconat tunc Jur predict sup Sacram suum predict dic qd predict Francus est culpabilis de transgr & ejeccone ill modo & forma put predict Jacobus inferius versus eum queritur & assid dampna ipsius Jacobi occone ill ultra mis & custag sua p ipsum circa sectam suam in hac parte appoint ad sex denar & p mis & custagiis ill ad quinquaginta & tres solidos & quatuor denar Sed si sup tota materia p Jur predict in forma predict compert videbitur eisdem Justic qd predict Francus non est culpabilis de transgr & ejeccone predict tunc iidem Jur sup Sacram suum predict ulterius dic qd predict Francus non est culpabilis de transgr & ejeccone ill put predict Francus interius p se plitando allegavit Et quia Justic hic se advisare volunt de & sup pmissis priusquam Judicium inde reddant dies dat est partib predict hic usq in Crastino Sce Trinitatis de audiendo inde Judicio suo Eo quod iidem Justic hic inde nondum &c.

Prohi-

Prohibition.

Pasch. ult. W. & M. B. C.

Honnor & *Uxor versus* Oxenden.

Levinz Part III. Fol. 364.

Angl' ss. MEmorand qd die Junij isto eodem Termino ven' hic in Cur' quidam Johes Honnor & Maria Uxor ejus per Ambrosiu' Reddal Attorn' suum & dant Cur' hic intelligi & informari qd omnia placita & negotia concernen' validitatem explanarionem interpretationem construction' sive exposition' alicujus Statuti hujus Regni Angl' ceteraq; hmodi negotia ac eorundm placitorum cognitiones ad Dñum Regem & Dñam Reginam nunc & Coronam suam Regiam & non ad foru' Ecc'liastic' ullo modo spectanct aut ptinent ac p leges terre hujus Regni Angl' in Cur' Regiis de Recordo coram ipsis Rege & Regina vel Justic' suis & al' Justic' & Judicib; & non Judices Ec'clicos aut Civiles ullo modo triari terminari seu discuti debeant ac semper hactenus consuever' & debuer' Cumq; p quendam Actum in Parliamento Dñi Henrici nuper Regis Angl' octavi apud Westm' in Com' Midd Anno Regni sui tricesimo secundo tent' inactitat' fuit authoritat' ejusdem Parliamenti qd a primo die Julij qui tunc foret in anno Dom' 1540. omnia & quodlibet tal' maritag' qual' infra Ecclesiam Anglicanam inter legales psonas contract' forent Et per Actum ill' declarat' fuit qd omnes psone legales fuer' que non phibit' fuissent maritare p Dei legem hmodi maritagia existen' contract' & solempnizat' in facie Ecclesie & consummat' cum carnali cognitione vel fructu liberor' & liberi in eodem hit' inter partes sic maritat' authoritat' Actus illius estimat' Anglice deemed adjudicat' & capt' forent esse legal' bona justa & indossolubil' non obstant' aliquo pcontractu sive pcontractibus matimonii non consummat' cum carnali cognitione quem altera pti' sic maritat' vel ambe facerent cum aliquibus al' psona sive psonis ante tempus contrahendi Anglice contracting hmodi maritagiu' quod solempnizat' & consummat' foret aut inde hmodi fructus insequeretur aut insequi poterat ut supdictum est & non obstan' aliqua dipensatione pscriptione lege vel re conces' sive confirmat' p act' vel aliter & qd null' reservatio aut prohibitio (Dei lege except') pturbaret sive impeteret Anglice impeach aliquod maritagium extra Levitical' gradus vocat' the Levitical Degrees Et qd nulla psona cujuscunq; status gradus sive condition' ipe vel ipa foret post dictu' primum diem supradict' admiss' foret ad aliquam Cur' spiritual' infra hoc Regnum Angl' vel infra dci' nup Regis terras & dominia ad aliquod pcess' placitum sive allegation' in contrarium actus illius put p actum ill' inter al' plenius liquet & apparet Cumq; etiam pdict' Johes Honnor & pdict' Maria uxor ejus fuer' & sunt legales psone infra actum ill' insimul maritari p leges Dei mie' phibit' ac fuer' & sunt extra prohibitionem legis Levitice quidm' tamen Georgius Oxenden Legum Doctor alme Cur' Cantuar' de Arcubus London' Official' Principal' legitime constitut' ad pmissa considerationem

Moor pl. 1266. 3 *Cro.* 228. Prohibition to stay a Suit in the Ecclesiastical Court upon ones marriage of the Daughter of the Sister of his first Wife, granted in order that the Legality of the marriage might come in debate.

Stat. 32 *H.* 8. of Marriages recited.

non habens sed machinans & intendend ipsos Johem & Mariam uxorem ejus contra legem Dei & non obstand Statut & lege Levitica pdict indebite pgravare opprimere & fatigare ad psecutionem & pmotionem cujusdm Josephi Bradshaw Notarij publici pmotoris Judicis Spiritualis pdict citari fecit eosdm Johem & Mariam ad comparend coram eodem Judice Spirituali apud Londoñ in Parochia beate Marie de Arcubus in Warda de Cheap ac super comparentiam ipsorum Johis & Marie in eadem Curia ibidem coram pfat Judice Spirituali Idem Judex Spiritualis objiciebat & articulabatur versus eos in forma sequend Quod cum scdm jus divinum qmd leges constitutiones aliasq; sanctiones Ecclesiasticas necnon Statuta saluberrima hujus Regni Angl omnes & singuli qui incestuose vixer & vivunt infra gradus de jure phibit matrimonium inter se contraxer & in facto solemnizari seu potius pphanari pcuraver unde scandalum est & de criminibus pdict laborabat publica vox & fama seu vehemens suspitio fuisset & adhuc fuerat a thoro & mensa mutuaq; cohabitatione separandi & divortiandi necnon matrimonium inter eos in ea pte solempnizatum seu potius pphanatum p nullo & invalid pnunciand & declarand fuerat Quodq; pdict Johes Honnor & quedam Anna Collins als Honnor ab omni al contractu matrimonial libi & immunes ad triginta quinq; sive triginta annos aut circiter tunc elaps matrimonium verum purum & legitimum p verba de presenti ad id apta legitime inter se contraxissent ac hmodi matrimonium inter eos in facie Ecclie Parochialis Cantuar̄q; Provincie aut alicujus al Ecclesie infra Cantuar Provinciam palam & publice solempnizari pcurassent & obtinuissent & postea matrimonium hmodi carnali copula subsecuta & liberorum pcreatione consummassent & tanquam Vir & Uxor veriq; & legitimi conjuges in unis & eisdem edibus cohabitassent proq; Viro & uxore verisq; & legitimis conjugibus fuissent fuer coit dicti tenementi hiti nominati & reputati palam publice & notorie Quodq; citra matrimonium inter pfat Johem Honnor & Annam ut pfertur solempnizatum dca Anna Honnor ab hac luce migrasset Et qd post pmissa pfat Johes Honnor Spiritu Diabolico ductus seu potius seductus atq; Deum pre oculis suis non habens Dom annis millesimo sexcentesimo nonagesimo & millesimo sexcentesimo nonagesimo primo mensibus in eisdem concurrend uno sive aliquo anime sue salutis immemor matrimonium quud verius effigiem matrimonii tum predict Maria contraxisset illudq; in facie Ecclesie Parochialis de Linslade infra Com Bucks Cantuar̄q; Provincie vel alicujus alterius Ecclesie infra Provinciam Cantuar solempnizari vel potius prophanari pcurasset necnon put vir & uxor imo verius mechus & mecha p duodecim decem vel novem menses ult elaps aut eo circiter ac una & eadem domo insimul cohabitassent & adtunc cohabitabant & comuni thoro & mensa usi fuer in grave scandalum parochianor de Leighton Budizart in Com Bedd & aliorum eidm Parech vicinor & circum vicinor Et qd pfat Anna Collins als Honnor dum vixit & quedam Sara Collins als Purrot posteaq; uxor Danielis Purrot fuissent & fuer sorores naturales & legitime necnon filie etiam nles & legitime cujusdm Johis Collins & ejus legitime ux' olim de Batlesdon prope Hockley in Com Bedd Cantuar Provinc proq; talibus ac ut tales comuniter dic tente hite nominat & reputate p eor consanguineos & omnes al partes ear notic hentes Et qd dca Maria Purrot uxor ptensa seu potius mecha antedict Johis Honnor unius partium in eodm fuit Nepotis et Sorore pfat Anne Collins antea dum vixit dci Johis Honnor Uxoris scilt filia naturalis & legitima antedict Danielis Purrot & Sare Purrot ejus Uxoris que Sara dum vixit fuit Soror naturalis & legitima antedict Anne Collins als Honnor prime Uxoris dci Johis Honnor & sic comunit tent & reputat And that there being a publick Fame and Report, that he the ſaid *John Honnor* did deſign to marry with *Mary Purrot*, his late Wives Niece, to the great ſcandal of the Chriſtian Religion, the Commiſſary of the peculiar Juriſdiction of *Leighton* did ſend to him the ſaid *John Honnor*, to adviſe and forewarn him from intermarrying with her, and to inform

inform him that the Marriage between him and the said *Mary Purrot* would be an incestuous Marriage, and the Message was delivered to him accordingly; notwithstanding which Monition be did prosecute and solempnize or rather prophane a Marriage with her. And that this was and is true, publick and notorious; and that the said *John Honnor* so much did know and believe in his Conscience, and hath confessed to be true. Quodq; ratione pmissoꝝ matrimoniū ptensum inter dcos Johem Honnor & Mariam Purrot ejus ptensam uxorem utcunq; de facto solempnizatū seu potius pphanatū fuisset & fuit infra gradus de jure phibitos ac in animarum suarum grave piculum aliorumq; Xpi fidelīū scandalū & dampnū pniciocissimum contra Munitiones Institutiones & Ordinationes Ecclicas hitum factum & mutū ac fuisset & est de jure invalid & nullum omnino & irritū proq; nullo ac ad omnem juris effectum invalido declarand adjudicand & sententiand pfatiq; Johes & Maria fuissent & adtunc fuer a thoro & meusa & mutua cohabitatione de jure separand devorciand & amovend Nōq; pfat Johes Honnor & Maria Purrot als Honnor uxor ejus ptens nuncupata p tantis temeritatum excessibus in pmissis fuissent & tunc fuer a thoro & mensa & mutua cohabitatione separandi & divorciandi necnon corrigendi & pmuniendi & sententia diffinitiva p nullitate dci ptens matrimonij sic ut pfertur solempnizati vel potius pphanati ferenda & pmulgand & qd pfat Johes Honnor & Maria Honnor sic vocat fuissent & tunc fuer Parochie de Leighton Budizart Dioces Lincolū Cantuarq; Provincie de ratione literaꝝ requisitorialium ab Ordinario loci prius in hac pte debite obtentaꝝ ac Jurisdictioni & authoritat ejusdem Curie Spiritualis subdit & subject Ac licet idem Johes Honnor juxta leges Ecclesiasticas hujus Regni Angl apud Leighton Budizart pdict duxit in uxorem suam pdcam Mariam ac licet matrmoniū inter eos juxta ritus Ecclie Anglicane ibm solempnizat fuit & consummat licetq; matrimonium ill non fuit contra legem aut verbum Dei nec contra legem Leviticam pdict nec ullo modo p legem terre hujus Regni Angl phibitū sed p Actum Parliamenti pdict authoritat & legitime fact & declarat Licetq; iidem Johes Honnor & Maria omnia & singula pmissa p ipsos supius suggest' in eoꝝ exoñationē coram pfat Judice sepius plitaver allegaver & ill inevitabil veritate & testimonio pbare obtulerunt Idem tamen Judex Spiritualis plitum allegaciōn & pbationem ill admittere penitus recusavit ac sententiam suam diffinitivam in ea parte versus eosdem Johem & Mariam dedit & pnunciavit in hiis verbis sequen videlt in Dei nomine Amen Auditis visis & intellectis & plenarie & mature discussis p nos Georgium Orendeū Legum Doctorem Alme Cur Cantuar de Arcubus Londoū Official Principal legitime constitut meritis & circumstantiis cujusdam negotii Officii qd coram nobis in Judicio inter Josephum Bradshaw Notariū publicum pmotorem Officci nri in hac pte necessarium ptem hmodi negoc pmoveū ex una & Johem Honnor & Mariam Purrot als (sed falso vocat) Honnor de Leighton Budizart in Com Bedd Cantuarq; Provincie partes contra quas idem negotium pmovetur ptibus ex altera vertitur & pendet indecis rite & legitime pcedeū ptibus pdict p eaꝝ respectivos procuratores coram nobis in Judicio ligitime compentibus parteq; pfat Josephi Bradshaw sententiam ferri & Justiciam fieri p parte sua vero memoratoꝝ Johis Honnor & Marie Purrot Justiciam p pte sua instant respective postulaū & peteū rumatoq; primitus per nos toto & integro pcessu coram nobis in hoc negocio hito & facto diligenterq; recensito servatisq; p nos de jure in hac parte servand ad nostre sententie diffinitive sive nostri finalis decreti placonem in humōd negocio ferendo sic duxim pcedend fore & pcedim in hunc qui sequitur modū Quia p Acta inactitat deduct pposit exhibit allegat pbat parit & confessat in hoc negotio compim & invenim partem pfat Josephi Bradshaw intentionem suam in quibusdm articulis ex parte sua in hoc negocio datis exhibit & admiss Et penes Registrum hujus Curie remanentib deduct (quos quidm articulos p hoc leck & inseck habem & heri volumus) sufficient & ad plenum quoad infra pro-

nunciand fundasse & pbasse nichilq; effectual ex pte & p patem dcoꝝ Johis Honnor & Marie Purrot fuisse in hac pte except deduct ppolit exhit allegat pbat seu confessat qd intentionem pfat Josephi Bradshaw in hac pte elideret seu quomodolibet enervaret idcirco Nos Georgius Orenden Judex antedictus (Christi Mol Primitus invocat ac ipsum solum Deum oculis nostris pponend & hentes deq; & cum consilio Jurisperitoꝝ cum quibus in hac parte comunicavimus matureq; delibavimus pnominat Johem Honnor infra tempus in hac pte articulatum & quandam Annam Honnor als Collins in dictis articulis etiam mencionat Virum & Uxorem verosq; & legitimos Conjuges quoad inferius pnunciand fuisse & p mutuam cohabitationem & carnalem copulationem & filii pcreand inter seipos hit matrimonium consummasse ac p Viro & Uxore comunit tent & reputat fuisse dcamq; Annam postea ab hac luce migrasse dictamq; Mariam Purrot ptem etiam in hac causa fuisse & esse Nepotem ex Sorore pfat Anne Honnor defunct dum vixit Ux' pfat Johis Honnor scilt filiam naturalem & legitimam Daniel Purrot & Sare Purrot ejus uxor etiam in dictis Articulis mentionat que Sara dum vixit fuit Soror naturalis & legitima antedce Anne Honnor ac p tal communiter reputat pfatosq; Johem Honnor & Mariam Purrot partes in hac causa citra mortem dce Anne & infra tempus in hac parte Articulatum Spiritu Diabolico seductus illicite & inceste insimul cohitasse & concubuisse & crimen incestus reos fuisse & esse ad omnem juris effectum pnunciamus & declaramus Et quia ex depositionibus quoꝝdam testium in hac pte pductoꝝ juratoꝝ & examinatoꝝ constat dcm Johem Honnor sepius agnovisse se & pfat Annam Honnor in matrimonio fuisse conjunct ac virum & uxorem fuisse Ideo & ex causis in hac pte apparentib9 dcm posterius matrimonium (si quod unqm fuit) sed potius effigiem matrimonii ptens inter pdict Johem Honnor & Mariam Purrot solempnizat (sed potius pphanat) fuisse & esse incestuosum & illegitimum & de jure & ab initio prorsus invalid & null ad omnem juris effectum judicamus pnunciam9 & declaram9 Illudq; matrimonium ptens (ut ab initio vacuum sive null) dissolvim9 eosdm Johem Honnor & Mariam Purrot separamus & ut imposterum ab omni cohabitatione matrimonali & illicit consortio abstineant stricte & sub pena Juris movendos fore decernim9 & movemus p psentes pfatq; Johem Honnor & Mariam juxta juris in hac parte exigentiam corrigendos & puniendos fore decernimus & declaramus Eosdemq; Johem Honnor & Mariam Purrot in expens legitimis ex parte & p ptem dcm Josephi Bradshaw factis & faciendis eisq; seu parti sive solvend condempnand fore decerniums & condempnamus p hanc sententiam nostram diffinitivam sive hoc nostrum finale decretum qm sive quod ferimus & promulgamus in hiis scriptis taxacom vero sive moderacom dictaꝝ expensarum nobis nrove surragato aut alii Judicii in hac parte competenti reservando reservamus Georgius Orenden Et hoc idem Judex Spiritualis fecisset in dictorum Dñi Regis & Dñe Regine nunc contempt & ipius Johis Honnor & Marie pjudicium & gravamen non modicum & contra legem & consuetudinem hujus Regni Angl ae contra Statut pdict Et hoc pat sunt Sificare Unde iidem Johes Honnor & Maria auxilium Cur' Dñi Regis & Dñe Regine nunc hic implorando petunt remedium & bre dictorum Dñi Regis & Dñe Regine de Prohibitione pfat Judici Spuali aut al Judici in hac pte competentem cuicunq; dirigend ad phibend ipos & eoꝝ quemlibet ne ipi vel eoꝝ aliquis placitum pdict pmissa aliqualit tangem coram eis seu eoꝝ aliquo ulterius teneant vel teneat quovismodo ac in executionem sententie illius nullo modo pcederent aut aliquis eoꝝ pcederet sed sententiam illam tanquam irritam & contra Statut pdict & legem terre hujus Regni Angl fact & fulminatam revocarent adnullarent & penitus p nullo herent seu unus eoꝝ sententiam ill revocaret adnullaretur & penitus p nullo heret Ac eosdem Johem Honnor & Mariam abinde penitus absolverent & relaxarent seu unus eoꝝ absolveret aut relaxaret piculo incumbem Et eis conceditur &c.

Hill.

Hill. 7 W. 3.

Townsend *versus* Deaks.

Stat. 23 H. 6. 37 Sect. 8. 10. Mich. 23 Car. 2. Finch versus *Putton.* Suggestion for to have a Prohibition. Dutchy Lancaster Savoy. *Stat. 25 Ed. 3.*

Angl' ss. MEmorand qd die Jovis prox. post Octab Sci Hillarij isto eodem Termino coram Domino Rege apud Westm veni Willus Townsend in ppria psona sua Et dat Cur Domini Regis hic intelligi & informari qd per quendam Actum Parliament tent ibm apud Westm in festo Sancti Hillarii anno Regni Edw tertii quondam Regis Angl vicesimo quinto consensit concordat & stabilit fuit qd deinceps nullus caperetur p petitione vel suggestione fact dicto Regi vel ejus Concilio nisi foret p indictamentum vel psentament proborum & legalium populor ejusdem vicineti ubi hujusmodi acta forent facta debo modo vel per process fact per bre originale ad communem legem Nec qd nullus extrapoit foret Anglice out de franches suis nec de libis tentis suis Anglice Freehold nisi debe foret induct Anglice brought in respond & deinde adjudicat Anglice forejudged per debm legum cursum Et si aliquid fact foret in contrarium inde remediat foret Anglice redressed & pro nullo heatur put p eundem Actum inter alia plenius liquet & apparet Cumqz etiam idem Willus p spacium duorum annor jam ult elaps fuit & modo existit Baltius Vic Com Midd deputat ad warrant exequend infra Com ill p eundem Vic fact & eidem Willo p eundem Vic direct Et non est vel unquam fuit aliquis Officiar vel Minister Cur Dom Regis Ducati sui Lancastr Cumqz etiam omnia & singla plita & cogniciones plitor de quibuscunqz tnsgr & contempt & de terris franches & plitis Coron infra hoc Regnum Angl hit & fact ceteraqz hujusmodi plita & negocia & eor plitor cognitiones dumodo non sunt de testamento vel matrimonio ad dcm Dom Regem nunc & Coronam suam Regiam & non aliquam Cur equitat vel Judices eor aut at hujusmodi Judices spectant & pertinent & semper hactenus spectare & pertinere consuever & debuer ac per legem terre hujus Regni Angl & non per ordines Cur equitat vel Judices ear aut at hmodi Judices quovismodo triari vel discuti debeant & p totum tempus supradcm consuever & debuer Cumqz etiam quodda pceptu vocat Bill of Midd e Cur Dom Regis hic scilt apud Westm in Com Midd Termino Sci Michis ult pterit emanan & pdict Vic Com Midd direct & delibat ad capiend corpus cujusdam Samuelis le Grey Armig infra Com pdict Ipse pfat Vic per garrant suum sub manu & sigillo ejusdem & iis debe confect postea & ante retorn ejusdem pcept scilt vicesimo septimo die Novembris jam ult pterit apud Westm pdict mandavit ipi pfat Willo adtunc & ibm uni Ballior pdict Vic ad capiend pdict Samuelem le Gray ipse idem Willus postea & ante retorn ejusdem bille & warrant ut pfertur direct & mandat scilicet pdict vicesimo septimo die Novembris apud Islington in Com Midd pdict extra Franches & Libtat Dom Regis Ducati sui Lancastr in le Strand in Com Midd pdict alibi infra pdict Franches vel Libtat cepit & arrestavit quidam tamen Ward Deakes Ballius libtat pdict Franches vel libtat dcd Dom Regis Ducati sui Lancastrie in le Strand in Com Midd & ut pmittitur premissor non ignarus machinans eundem Willum in hac parte minus rite pgravare ac dictum Dominum Regem nunc & Coronam suam Regiam exheredare cognitionemqz placitorum que ad dictum Dominum Regem nunc & Coronam suam Regiam & non ad Cur equitat vel hmodi Judic ptinet ad aliud examen coram Judicibus Cur dicti Dom Regis sui Ducati Cam Lancastrie apud Westm trahere Ipsumqz Willum coram pfat Judicibus Cur dcd Domini Regis sui Ducati Cam Lancastrie apud Westm psequitur ad triand

triand Jurisdictionem Cur ill & execution warrant pdict infra Franches & Libertat pdict dicti Dom Regis sui Ducati Carde Lancastrie apud Westm & ipsum Willum p suppoit offens ill in Cur ill puniend ac licet ipse idem Wilłus in pdict Cur dic Dni Regis sui Ducati Carde Lancastrie apud Westm coram pdict Judicibus Cur illius omnia & singula pmissa superius content in exoneratione sua superius placitavit & allegavit Et ill inevitabili veritate & testimonio pbare obtulit dicti tamen Judices Cur dicti Dom Regis Ducati sui Carde Lancastrie apud Westm plitum & allegationem ill admittere penitus recusaver Et ipsum Willum p pdict ptens offens lesionis Franches pdict capiend arrestand & imprisonand totis suis viribus conantur & machinantur in dcd Dom Regis nunc contemptum & ipsius Willi dampnum pjudicium & gravamen manifestum Et hoc idem Wilłus parat est dificare put Cur &c. Et quia hujusmodi attempt pdict Deakes implitand eundem Willielmum in pdict Cur dcd Domini Regis Ducati sui Carde Lancastrie apud Westm ex causa pdict est contra formam & effectum Statuti pdict & communem legem hujus Regni Angl Idem Wilłus pet auxilium & munificentiam Cur Dom Regis nunc hic humillime implorando remedio &c.

Stat. 25 H. 6. 27 Eliz. 8 10. Mich. 29 Car. 2. Finch versus Parren. Suggestion for to have a Prohibition. Dutchy Lancaster Savoy. Stat. 25 H. 8.

Debt

Debt Qui tam, &c.

Trin. 5 W. & M.

Winford.

Dominus Rex, &c. *versus* Buncalke.

Roll. 685.

Kingston sup' Hull ss. SAmuel Buncalke nup de Villa de Kingston sup Hull in Com Ville de Kingston sup Hull generosus subvic Ville de Kingston sup Hull pdict & Com ejusdem Ville sum fuit ad respondend Dnõ Regi & Dnẽ Regine nunc & Johi Baker generoso qui tam p Dnõ Rege & Dnã Regina quam p seipso sequitur de plito qd reddat dictis Dnõ Regi & Dnẽ Regine & eidem Johi qui tam &c. ducentas libras quas eisdem Dnõ Regi & Dnẽ Regine & pfat Johi qui tam &c. debet & injuste detinet &c. Et unde idem Johes qui tam &c. p Carolum Robinson Attorn sum dic qd cum in Statuto in Parliamento Dni Henr nup Regis Angl sexti apud Westm 25 die Febr anno Regni sui 23 edit int cetera continueatur qd cum Dñs Rex Edrus tcius p dictis & specialibz causis in Parliamento suo tent apud Westm die Mercurii px' post medium quadragesimo anno Regni sui quarto decimo p eo qd dicti Vic in dictis Com Anglie tunc existend huer officia sua aliqui p tmino annex' ex concessione Regis & aliqui expectantes in longiori continuacone in officiis suis p perturbaconem fuissent magnope ausi & cepissent sup eis face plures & dictas oppressiones dictis ligeis Dni Regis & minus recte male & falso deservissent Dnõ Regi & populo suo ordinavit & fecit qd nullus Vic maneret nec moraretur in officio suo ultra unu annu & qd tunc alt idoneus & sufficiens homo esset ordinat in locum suu p Cancellar Thesaurariu & Capitalem Baron Scaccarii Dni Regis & alios quolibet anno in Crastino Animar put in eodem Statuto plenius continetur Et post Statutu illud sic factum p aliud Statutu factu apud West' in Parliamento pdict Dni Regis Edw tcii ibm tent primo die Maii anno Regni sui quadragesimo scdo idem Dominus Rex Edrus tcius ordinavit & statuit qd nullus Vic nec subvic nec Clicus Vic maneret nec moraretur in officio suo ultra unu annu sic ut ordinat fuit p ad Statut ante tempus illud fact put in eodem Statuto de anno quadragesimo scdo plenius apparet Et insup p aliud Statut factum apud Westm in Quindena Sci Michaelis anno Regni Regis Richardi scdi primo ordinat fuit & Statut qd nullus homo qui fuit Vic de aliquo Com p unu annu integrum esset alcũs alio tempore nec positus in dicto officio p tres annos tunc px' sequen nisi non foret aliquis alius sufficiens infra dictu Com put p idem Statut Regis Ricd scdi plenius apparet Et quia in dictis Com Angl post pdict Statuta sic facta plur & dicti Vic fiebant & occupaver officia Vic infra dictu Com aliqui p decem annos aliqui p duodecim annos & amplius ad grave dampnu dicti nup Regis Henr sexti & Progenitor suor & populi sui infra dictu Com in Contrariu Statutor pdict & totius altius bone regule & verisimile tempore tunc futur fore ad importabile dampnu apertam exheridaconem & supportaconem homicidii

Debt qui tam, &c. The Stat. 23 H. 6. against Under-sheriff for Exercising his Office more than a Year, on the Forfeiture of 200 l.

cidii & perjurii & magnam oppressionem plurimor ligeor dicti dni Regis considerat magna consanguitate affinitate & familiar Vic tam de illis qui antea fuer quam de illis qui tunc fuer in Com illis dictus nup Rex Henr sextus considerat pmissis ordinavit authoritate pdict Parliamenti sui qd pdict Statuta prius recitat & qd lib fuit debite observat in quolibt Com Angl (subvic & omnib aliis Officiariis infra Civitat London adtunc existen vel imposterum fiend totalit except & illis Comitat solummodo except in quib dicti ligeor dni Regis fuer hereditabil ad offic Vic die ejusdem Statuti fact & simil talib psonis que hur Statutum libi tenementi in officio Vic & eor die Statuti illius fact p lras paten sibi factas de officio Vic & eor Subvic & Clericor except) Et si aliquis Vic Subvic vel Clericus Vic occuparet officium Vic Subvic vel Clic Vic in contrarium alicujus Statut pdict prius recitat contra effectum vel intenconem alicujus eorundem (except pexcept) qd ipse qui sic occuparet offic Vic Subvic vel Clici Vic forisfacet summam ducentar librar annuatim p totum tempus quo sic occuparet offic Vic Subvic vel Clici Vic contra formam & effectum Statut pdict Et qd quilibet ligeus qui psequeret pdict suma forisfact sius eum vel eos qui in tali forma forisfacet vel forisfacent recipietur & admitteretur psequi action debi in suo pprio noie & qd dictus Rex heret unam medietatem de toto eo qd accideret p eandem acconem recupari p talem sectam Et ille seu illi qui psequeretur vel psequerentur heret seu herent altam medietatem put p Statutum illud int alia plenius liquet & apparet Et idem Johes Baker qui tam &c. in facto dic qd nullus ligeus dni Regis ad offic Vic Ville de Kingston sup Hull pdict & Com ejusdem Ville die Statut pdict dni Henr nup Regis Angl sexti facti

The Defend' not qualified within the Exceptions of the Act.

hereditablis fuit qdq pdict Samuel nunquam huit statum libri tenementi nec aliquem alium statum in officio Subvic Ville de Kingston sup Hull pdict & Com ejusdem Ville nec unqm extitit vel hereditabil in eodem officio nec unqm huit aliquas lras paten fact de eodem officio Subvic ejusdem Ville & Com ejusdem Ville Qdq dictus Samuel officium Subvic Ville pdict & Com ejusdem Ville exercuit & occupavit p unum annum integrum (scilt) a decimo octavo die Octobs anno regni dni Regis & dne Regine nunc scdo usq decimum octavum diem Octobs anno regni dictor dni Regis & dne Regine nunc tcio sub Willo Hall Gen & Johe Higden Gen separatim & successive p idem tempus Vic ejusdem Ville & Com ejusdem Ville existen (videlt) apud eandem Villam de Kingston sup Hull faciendo & exequendo p eundem annum ibidem omnia & singula que ad officium Subvic dicte Ville & Com ejusdem Ville pertinuit Predictus tamen Samuel Statut pdict mie ponderans nec penam pdict aliqualit verens post annum ill finit quo sic occupasset officium Subvic Ville pdict & Com ejusdem Ville ipse in eodem officio Subvic Ville pdict & Com ejusdem Ville continuavit & remansit ac officium illud

That the Defendant exercised the Office for 2 Years together.

Subvic ejusdem Ville Subvic de Kingston sup Hull & Com ejusdem Ville exercuit & occupavit p unum alium annum integrum tunc px' & immediate sequen (scilt) a pdict decimo octavo die Octobs anno tcio supdicto usq decimum octavum diem Octobs anno tcio supdicto usq decimum octavum diem Octobs anno regni dictor dni Regis & dne Regine nunc quarto sub quodam Johe Collings Gen p eundem annum ult menconat Vic ejusdem Ville de Kingston sup Hull & Com ejusdem Ville existen (videlt) apud Kingston sup Hull pdict faciendo & exequendo etiam ibm p eundem ult annum omia & singula que ad officium Subvic ejusdem Ville & Com ejusdem Ville ptinuit sicq ipse idem Samuel in eodem officio Subvic dicte Ville de Kingston sup Hull & Com ejusdem Ville p duos annos integros simul Anglice together continuavit & remansit contra formam Statut pdict ac pinde forisfecit ducentas libras p qd actio accrevit dictis dno Regi & dne Regine nunc & eidem Johi qui tam &c. ad exigend & hend de pfat Samuele pdict ducentas libras pdict tamen Samuel licet sepius requisit pdict ducentas libras eisdem dno Regi & dne Regine ac eidem Johi Baker qui tam &c. nondum reddidit set ill eis hucusq reddere contradixit & adhuc contradic Unde idem Johes Baker qui tam &c. dic qd ipse

ipse deterioratꝰ est & dampnum het ad valenciam decem librarum Et inde tam pdictis dnō Regi & dne Regine quam p seipso pduc sectam &c.

Et pdict Samuel in ppria psona sua ven & defend vim & injur Et dic qd ipse ad bre Originalꝰ pdict Johis respondend compelli non debet Quia dic qd ipse est & die impetrationis bris Originalis pdict & diu antea fuit unꝰ Attorn Cur dnī Regis & dne Regine de Banco hic qdqz in eadem Cur hetur & existit & a tempore cujus contrarii memoria hominum non existit hebatur & fuit talis consuetudo hic usitat & approbat (videlt) qd nullus Attorn ejusdem Cur ad respondend alicui in aliqua accone psonalꝰ in Cur hic sup bri originali impetrat seu alit (nisi p billam tantum) Glus hujusmodi Attorn Justic hic exhibit contra voluntatem suam compelleretur Et idem Samuel ultius dic qd ipse tract est in plitis in Cur hic p bre originale pdict ad respondend pfat Johi Baker de pdict plito de bi contra voluntatem sua & consuetud pdict Et hoc parat est verificare unde ex quo idem Samuel unꝰ Attorn Cur hic existit & die impetraconis bris originalis pdict & antea fuit ipse pet privileg suum pdict sibi adjudicari Et qd ipse ad bre originale pdict non respondeat &c.

Et pdict Johes Baker qui tam &c. dic qd pdict plitum pdict Samuelis supius in barram plitat ac materia in eodem content minus sufficiens in lege existunt ad ipsum Johem Baker qui tam &c. ab accone sua pdict Glus pfat Samuelem hend pcludend Quodqz ipse idem Johes Baker qui tam &c. ad plitum illud modo & forma pdict plitat necesse non het nec p legem tre tenetur respondere Et hoc parat est verificare unde p defectum sufficient pliti pdict Samuelis in hac parte idem Johes qui tam &c. pet Judicium & debitum pdict dictis dnō Regi & dne Regine & eidem Johi Baker qui tam &c. adjudicari &c. Joinder in demur.

Et pdict Samuel ex quo ipse sufficient materiam in lege ad pdict Johem qui tam &c. ab accone sua pdict Glus ipsum hend pcludend supius allegavit quam ipse parat est verificare quam quidem materiam idem Johes qui tam &c. non dedic nec ad eam aliqualit respond sed verificaconem illam admitt omio recusat pet Judic Et qd pdict Johes qui tam &c. ab accone sua pdict hend pcludatur &c. Et quia Justic dnī Regis & dne Regine hic se advisare volunt de & sup pmissis pdict priusquam Judicium inde reddant dies dat est partibz pdict hic a die Scī Michaelis in unum mensem de audiendo inde Judicio suo Eo qd iidem Justic hic inde nondum &c. Pliantiff demurs to the Plea.

Quare Impedit.

Winford. Hill. 32 & 33 Car. 2. Rot. 1432.

Holt *versus* Episcopum Winton' *& al'.*

Levinz Part III. Fol. 47.

2 Cro. 200. March 23. Quare Impedit.

Surr' ss. GEorgius Episcopus Winton Richardus Holt Michael Holt & Richardus Holland Clicus sum fuer ad respondend Elizab Holt de plito quod pmittent ipsam Elizabetham psentare idoneam psonam ad Ecclesiam de Alford que vacat & ad suam spectat donationem &c. Et unde eadem Elizabetha per Henr Burnel qui admissus est per Curiam Dom Regis hic ad psequend p eadem Elizabetha que infra etatem viginti & unius annorum existit ut primus amicus ipsius Elizabethe dic quod cum quidam Willus Holt fuit seisit de Advocatione Ecclesie pdict ut de uno grosso p se feodo ut de feodo & jure Et sic inde seisitus existen ad Ecclesiam ill vacan psentavit quendam Edwardum Holt Clicm suu qui ad psentationem ipsius Willi fuit admissus institut & inductus in eadem tempore pacis tempore Domini Caroli nuper Regis Anglie primi pdictoq Willo de Advocatione pdict sic ut pfecut seisit existen ac pdict Edwardo Rectore sive Incumbente Ecclesie pdict ut psequend existen idem Willielmus apud Alford pdict obiit de advocatione pdict sic ut pfertur seisit existen post cujus mortem advocatio pdict descendebat pfat Edwardo ut filio & heredi pdict Willi p quod idem Edwardus fuit seisit de advocatione pdict ut de uno grosso pro se ut de feodo & jure Et sic inde seisit existen necnon Rector & Incumbente Ecclie pdict ut pfertur existen Idem Edwardus postea apud Alford pdict obiit de advocatione pdict sic ut pfertur seisit p cujus quidem Edwardi mortem Ecclesia pdict vacavit & adhuc vacans existit ac post ipsius Edwardi mortem advocatio pdict descendebat eidem Elizabethe ut Consanguinee & heredi pdict Edwardi videlicet filie & heredi Johis Holt filii natu maximi pdict Edwardi p quod eadem Elizabetha fuit & adhuc est seisit de advocatione Ecclesie pdict ut de uno grosso p se ut de feodo & jure Et ea ratione ad ipsam Elizabetham idoneam psonam ad Ecclesiam pdicam sic vacan ad psens pertinet psentare Et pdict Epus Ricus Michael & Ricus Cam injuste impediunt unde dic qd deteriorat est & dampnum habet ad valenciam ducentar librarum Et inde produc sectam &c.

Advowson in gross.

Plaintiffs Title.

Et pdict Ricus Holt p Matthiam Charter qui admissus est per Curiam Regis hic ad defendend p eisdem Rico Hall & Michael qui infra etat suas viginti & unius annorum existunt ut Guardian ipsor Ric Holt & Michis Et pdict Epus & Ricus Holland p Johem Canter Attornat suum ven & defend vim & injuram quando &c. Et idem Epus dic qd Ecclesia pdict est infra Dioces suam Winton qdq ipe nichil het nec here clamat in Ecclia pdict Nec in advocatione ejusdem nisi admissionem institutionem & destitution psonar ad Ecclesiam illam & cetera que ad Ordinarium ptinent ut loci

Plea of the Bishop that he claims nothing but as Ordinary.

loci illius Ordinarius Et hoc parat est verificare unde pet Judicium si p̄dicta Elizabetha absq; spiali impedimento in persona ipsius Epi in hac pte assignand actionem suam p̄dict ḡsus eam here debeat &c. Et p̄dictus Richardus Holt dic quod p̄dict Elizabeth actionem suam p̄dict versus eam habere non debet quia dicit quod p̄dict Edwardus Holt fuit seisit de advocation Ecclie p̄dict ut de uno grosso p se ut de feodo & jure put p̄dict Elizabeth p narrationem suam p̄dictam superius suppon Et p̄dictus Ricus Holt ulterius dic quod p̄dict Edrō Holt sic inde seisit existen idem Edwardus Holt postea & ante diem impetrationis brevis originalis ipsius Elizabeth scilt vicesimo nono die Septemb anno Regni Dñi Caroli scdi nunc Regis Angl &c. vicesimo quinto apud Alford p̄dict p quandā Indenturam suam adtunc & ibidem fact geren dat eisdem die & anno p & in consideratione summe centum librarum legalis monete Anglie per Thomam Musgrave de Wocleding in Com Sussex Clicum solut ac p securitate resolutionis ejusdem denarioꝝ summe cum interesse pro eadem concessit eidm Thome Musgrave & heredibus suis advacationem p̄dict habend & tenend eidem Thome Musgrave heredibus & assignat suis sub hac condition; tamen in eadem Indentura spec qd p̄dictus Edwardus Holt Heredes Executores Administratores vel Assignat sui solverent vel solvere causarent sexaginta solidos legalis monete Anglie p̄fat Thome Musgrave vel Assignatis suis super tricesimum diem Martii tunc pror. sequen post dat Indent p̄dict ac summam centum & trium librarum consimilis monete super tricesimum diem Septembris qui fuit in anno Domini millimo sexcentesimo septuagesimo quarto quod tunc Indentura p̄dict & quelibet materia & res in eadem content cessarent determinarent fiant vacue & nullius effectus Et p̄dictus Ricus Holt dic quod p̄dict Edwardus Holt non solvit p̄fat Thome Musgrave p̄dict summam centum & trium libraꝝ super p̄dict tricesimum diem Septembris anno Dñi millimo sexcentesimo septuagesimo quarto supradict per quod status p̄dict de & in advocatione Ecclesie p̄dict p̄fat Thome Musgrave in forma p̄dicta conces devenit absolut & fuit solummodo recuparabilis p p̄fat Edwardum Holt super solutione principalis monete & interesse p eadem Et p̄dictus Ricus Holt ulterius dic quod p̄dict Edwardus Holt postea scilt secundo die Januarii anno Regni dci Domini Regis nunc vicesimo sexto apud Alford p̄dict condidit testamentum & ult voluntatem sua in scriptis & per eandem voluntatem suam inter alia dedit & devisavit Elizabethe tunc uxori ejus & filiis ipsius Elizabeth per p̄dict Edwardum Holt pcurat p̄dict advocationem Ecclesie per nomina debitorum & hereditat que tunc non fuerunt in possessione ipsius Edwardi sed per legem recuparabil & p̄dict Richardus Holt dic quod p̄dict Thomas Musgrave postea scilicet vicesimo die Aprilis anno Regni dicti Dom Regis nunc vicesimo apud Alford p̄dict pro & in consideratione centum libraꝝ debiti principalis & totius interesse supinde debit eidem Thome Musgrave p p̄fat Edwardum Holt solut per quoddam scriptum suum sigillat concessisset eidem Edwardo Holt p̄dict advocationem Ecclie p̄dict habend & tenend eidē Edwardo & heredibus suis imperpetuum Virtute cujus concessionis p̄dict Edwardus Holt iterum seisit fuit de advocatione Ecclie p̄dict ut de uno grosso p se ut de feodo & jure & sic inde seisit existen p̄dict Edwardus Holt huit exit de corpore suo super corpus p̄dict Elizabeth uxoris ejus p̄dict Ricum Holt & postea apud Alford p̄dict obiit de advocatione p̄dict in forma p̄dict seisit posteaq; p̄d Elizabetha uxor p̄dict Edwardi Holt ibidem similiter obiit post quorum quidem Edwardi & Elizabethe mortem idem Richardus Holt virtute devisationis p̄dict ut filius p̄dict Edwardi Holt & Elizabeth fuit seisit de advocatione Ecclesie p̄dict ut de libo tento p termino vite ejusdem Richardi & adhuc inde seisit per quod ad ipsum Richardum Holt idoneam personam ad Ecclesiam p̄dict jam vacan pertinet p̄sentare Et hoc paratus est verificare unde pet Judicium si p̄dict Elizabetha modo querens actionem suam p̄dict versus eam here debeat &c. Et p̄dictus Michael Holt dic quod p̄dict Elizabeth modo querens actionem suam p̄dict versus eum habere

Plea of the Defendant *R. H.*

Who claims the Advowson by Will.

Plea of *M. H.*

habere non debet quia dicit qđ bene & verum est qđ pdict Willus Holt fuit seisit de advocacone Ecclesie pdict ut de uno grosso p se ut de feodo & jure Et sic inde seisit existens ad Ecclesiam illam Vacant psentavit pdict Edwardum Holt Clicum suum qui ad psentationem ipsius Willmi fuit admissus institutus & inductus in eadem tempore pacis tempore Dnd Caroli nup Regis Angl primi Postq Willo de advocacone pdict sic ut pfert seisit existen ac pdict Edward Holt rectore sive incumbente Ecclesie pdict in forma pdict existen idem Willus postea apud Alford pdict obiit de advocacone pdict sic ut pfert seisit post cujus mortem advocaco pdict descendebat pfat Edwardo ut filio & hered pdict Willi p qđ idem Edwardus fuit seisit de advocacone pdict ut de uno grosso p se ut de feodo & jure put pdict Elizabeth modo querens p Narrationem suam pdict supius suppon Sed pdict Michael Holt ultius dic quod pdict Edwardo Holt de advocacone Ecclesie pdict sic ut pfert seisit existen quidam finis se levavit in Cur dnd Regis de Banco hic scilt apud Westm in crastino Scē Trinitatis anno Regni dicti Dnd Regis nunc tricesimo supdico coram Franco North Johe Archer Hugone Windham Robto Atkyns & Willo Scroggs tunc Justis & al ejusdem dnd Regis fidelib tunc ibm psentib int pfat Thomam Musgrave quer & eundem Edwardum Holt deforc de advocacone pdict int al p nomen advocaconis Ecclesie de Alford Unde pltum conventionis suum fuit in eadem Cur scilt qđ pdict Edwardus Holt (int alia) recogn advocaconem pdict esse jus pdict Thō Musgrave ut ill quam idem Thomas huit de dono pdict Edwardi & illam remisit & quiet clam de se & heredib suis imppetu & pterea idem Edwardus concessit p se & heredib suis qđ ipse war pdict Thome & heredib suis pdict advocaconem contra omnes hōies imppetum put p finem ill in Cur dnd Regis hic de recordo residens manifeste liquet & apparet qui quidem finis hit & levat fuit ad usum ipsius Thome Musgrave & heredum suor imppetum cujus quidem finis pretextu pdict Thomas Musgrave fuit seisit de advocacone pdict ut de uno p se ut de feodo & jure Et sic inde seisit existen idem Thomas Musgrave postea apud Alford pdict obiit sic inde seisit absq aliquo exitu de Corpore suo exeun post cujus mortem advocaco pdict discendebat pdict Michi Holt ut Consanguineo & hered pdict Thome Musgrave scilt filio Johis Holt & Anne uxor ejus sororis & heredis ipsius Thome Musgrave p qđ pdict Michael Holt seisit fuit & adhuc seisit existat de advocacone pdict ut de uno grosso p se ut de feodo & jure absq hoc qđ pdict Edwardus Holt obiit seisit de advocacone Ecclesie pdict in forma qua eadem Elizabeth modo querens p Narraconem suam pdict supius suppon Et hoc parat est verificare unde petit Judicium si pdict Elizabeth actionem suam pdict vsus ipsum Michem here debeat &c.) Et pdict Ric Holland dic quod narraco pdict & materia in eadem content minus sufficien in lege existunt ad pdict Elizabeth Acconem suam pdict vsus ipsum Ric habend & manutenend quodq ipse ad narraconem pdict in forma pdict fact & declarat necesse non het nec p legem terre tenetur respondere Et hoc parat est verificare unde p defectu sufficien Narraconis in hac parte idem Ric Holland petit Judic & qđ pdict Elizabeth modo querens ab accone sua pdict vsus eum hend pcludatur &c. Et pdict Elizabetha modo quer quoad pdict plitum pdict ipsius ex quo ipse nihil clamat in Ecclesia pdict neq in advocacone ejusdem nisi admissionem institutionem & destitutionem psonar ejusdem Ecclesie & oīa que ad ordinar ptinent ut Ecclesie illius Ordinarius &c. pet Judicium & bre Episc &c. Iđ cons est quod pdict Elizabetha modo querens recuperet vsus pfat Epm psentationem suam ad Ecclesiam pdict & heat bre pdict Epo qđ non obstante reclamacone sua ad psentaconem ipsius Elizabeth idoneam psonam ad Ecclesiam pdict admittat &c. Sed cessat inde executio quousq plita pdict int ipsam Elizabeth modo quer & pdict Ric Holt Michael Holt & Ric Holland terminentur &c. Et pdict Elizabetha modo querens quoad pdict plit pdict Ric Holt supius in Barram placitat dicit qđ ipsa p aliqua in eodem plito pallegat ab accone sua pdict inde hend pcludi non debet quia protestando non cognoscendo aliqua p pdict Ric Holt supius placi-

Incumbent demurs to the Declaration.

Judgment against the Ordinary.

placitando allegat (preter materias in narratione predict allegat per predict Ric Holt confessa) fore vera per plito eadem Elizabeth dicit qd predict Edmus Holt non dedit & devisavit prefat Elizabeth uxori ejus & filiis ipsius Elizabeth predict Edwardo Holt procreat predict advocationem Ecclesie predict prout predict Ric Holt supius plitando allegavit Et hoc pet qd inquirat per patriam Et predict Ric Holt similit Et predict Elizabetha modo quer quoad predict plitum predict Michael Holt supius in barram plitat dic qd ipsa per aliqua in eodem plito pallegat ab actione sua predict inde hend precludi non debet quia protestando non cognoscendo aliqua per predictum Michem supius plitat (preterquam materias in narratione predict per ipsum Michem supius cognit) fore vera per plito eadem Elizabeth ut prius dic qd predict Edwardus Holt obiit seisit de advocatione Ecclesie predict in forma qua eadem Elizabeth per narrationem suam predict superius suppon Et hoc petit quod inquiratur per patriam Et predict Michael similit Et predict Elizabetha modo quer ex quo ipsa sufficien Materiam in lege in narratione sua predict ad ipsam Elizabeth ad actionem suam predict versus prefat Ric Holland hend manutenend superius declaravit quam ipsa parat est verificare quam quidem Materiam predict Ric Holland non dedicit nec ad eam aliqualit respondet Sed verificationem illam admittere omnino recusat petit Judicium & bre Epo unacum dampnis &c. sibi adjudicari &c. Et quia Justic hic se advisare volunt de & super premissis unde predict Elizabeth modo querens & Ric Holland superius posuer se in Judicium Cur priusquam Judic inde reddant dies dat est partibz predict hic usqz a die Pasche in quindecim dies de audiendo inde judicio suo Eo qd iidem Justic hic inde nondum &c. & quoad triand exitus predict superius junct prec est Vic qd venire fac hic in Octabis Pur bte Marie duodecim ---- &c. per quos &c. & qui nec &c. ad recognd &c. Quia tam &c.

The Plaintiffs Replication to the Plea of *R.H.* and Issue.

Replication to the Plea of *M.H.* and Issue.

Joinder in demur to the Incumbent.

Judgment pro Quer' Sed vide le Reports.

Pasch. 7 W. III. C.B. Intrat'.

Reynolds *& al' versus* Episcop' London' *& al'*

Levinz Part III. fol. 415.

London ss. Henr Episcopus London & Robtus Blake Clericus sumon fuer ad respondend Francisco Reynoldson Willo Bradford & Georgio Woolli de plito qd pmittant eos presentare idoneam psonam ad Ecclesiam Sci Andree Wardrobe als Sci Andree juxta Turrim sive Castrum Baynard Anglice Baynards Castle que vacat & ad suam spectat donationem &c. Et unde iidem Francus Georgius & Wills per Josephum Pate Attorn suum dic qd in nup tribil conflagration Civit London incident scdo die Septembs anno Dni 1666. tam Ecclesia Parochial Sce Anne Blackfryars in Warda de Faringdon infra quam predict Ecclesia Parochial Sce Andree Wardrobe als Sci Andree juxta Turrim sive Castrum Baynard anglice Baynards Castle in Warda de Castle Baynard & diverse al Ecclesie Parochial infra Civit London combust' fuer Et iidem Francus Willus & Georgius ultius dic qd per quendam actum in Parliamento dicti Dni Caroli Scdi nup Regis Angl &c. tent apud Westm in Com Midd anno Regni sui 22 edit int al inactitat existit authoritate ejusdem Parliamenti qd Parochia de Alhallows Breadstreet & Parochia Sci Johes Evangeliste infra eandem Civit unit forent in unam Parochiam & Ecclesia antea spectand ad Parochiam

Quare Impedit.

The Fire of *London* in 1666.

That the Churches of St. *Ann Blackfryars* and St. *Andrews Wardrobe* were burnt.

The Act for Union of several Parish Churches, and particularly of St. *Ann Blackfryars* and St. *Andrews Wardrobe*, and St. *Andrews Wardrobe* should be the Parish-Church.

The respective Patrons should present by turns.

The first Presentation to be by such Patron of the Church whose Endowments were larger.

That the Endowments of St. *Andrew* are of larger yearly value.

That *Tho. Gouge* at the time of the Act was seised in fee of the Advowson of *Blackfryars*.

That K. *Charles* the 2d. was Patron of the Church of St. *Andrews Wardrobe*.

That at the time of the Act *J. C.* was Incumbent of St. *Andrews Wardrobe*.

Tho. Gouge in 27 *Car.* 2. sells his Advowson of *Blackfryars* to several of the Inhabitants in fee.

am de Alhallows Breadstreet reedificat foret & foret Ecclesia Parochial pdict Parochiar sic unit Et qd pdict Parochia Scti Andree Wardrobe & Parochia Scte Anne Blackfryars infra eandem Civit unit forent in unam Parochiam & Ecclesia antea spectan ad pdict Parochiam Scti Andree Wardrobe foret Ecclesia Parochial pdict Parochiar ult sic unit Et p eundem actum ulterius inactitat fuit qd separ & respective Patroni anglice several and respective Patrons, pdict Parochiar sic unit psentarent p vices anglice by turns, ad talem Ecclesiam tantum qual p actum pdict appunctuat fuit re-edificari & stabiliri p Ecclesia Parochial Parochiar sic unit ut pfertur Et qd prima presentaco ad Ecclesiam ill fieret p Patron tal pdict Ecclesiar cujus doles anglice the Endowments whereof fuer maximi annui valoris put p eundem actum int al plenius liquet & apparet Et iidem Francus Wills & Georgius ulterius dic qd tempore confecconis pdict actus Parliamenti Dos anglice the Endowment pdict Ecclesie Scti Andree Wardrobe alias Scti Andree juxta Turrim sive Castrum Baynard anglice Baynards Castle fuit majoris annui valoris quam Dos anglice the Endowment pdict vicarie Ecclesie Scte Anne Blackfryars scilt apud London in Parochia Scti Andree Wardrobe alias Scti Andree juxta Turrim sive Castrum Baynards anglice Baynards Castle in Warda de Castle Baynard pdict qdq pdict tempore confecconis actus Parliamenti pdict quidam Thomas Gouge fuit seisit in dominico suo ut de feodo de & in rectoria impprial pdict Parochie Scte Anne Blackfryars in Warda de Farrindon infra ad quam advocaco Vicarie Ecclesie Parochial Scte Anne Blackfryars in Warda pdict tunc ptinebat & fuit indubitat Patron ejusdem Vicarie qdq Dns Carolus Scds nup Rex Angl pdict tempore confecconis pdict Parliamenti fuit indubitat Patron pdict Ecclesie Scti Andree Wardrobe alias Scti Andree juxta Turrim sive Castrum Baynard anglice Baynards Castle, & fuit seisit de advocacone pdict Ecclesie Scti Andree Wardrobe alias Scti Andree juxta Turrim sive Castrum Baynard anglice Baynards Castle in Warda de Castle Baynard pdict ut de feodo & jure in Jure corone sue Angl qdq pdict Ecclesia Scti Andree Wardrobe alias Scti Andree juxta Turrim sive Castrum Baynard anglice Baynards Castle in Warda de Castle Baynard pdict tempore confecconis pdict actus Parliamenti fuit plena & consulta de quodam Jacobo Cade Theologie pfessore adtunc rector ejusdem Ecclesie qdq pdict Thomas Gouge de pdict rectoria Scte Anne Blackfryars ad quam &c. sic ut pfertur seisit existen idem Thomas Gouge postea scilt 29 die Aprilis anno Regni dicti Dni Caroli Scdi nup Regis Angl &c. 25 apud London pdict in Parochia Scti Andree Wardrobe pdict in Warda de Castle Baynard pdict p scriptum suum indent fact int pdict Thomam Gouge p nomen Thome Gouge nup de Parochia Scti Sepulchri London Cler filii & hered Willi Gouge nup de Blackfryars London Theologie pfessor defunct ex una parte & Benjaminum Whichcott de London Theologie pfessor Johem Ellum Feltmaker Francum Reynoldson Taylor Johem Young sen Stonecutter Petrum Sambrooke Apothecary Willm Bradford Taylor Willm Lawrence Baker Thomam Flint Feltmaker Andream Hedges Taylor Robtm Tipne Clothworker Ric Boote Henr Johnson Victualler Johan Kne Feltmonger Henr Hills Printer Johan Crapp Woodmonger & Georgin Woolfe Taylor Inhabitantes anglice Inhabitants infra Precinct de Blackfryars London ex alta parte cujus unam partem sigillo pdict Thome Gouge sigillat iidem Willus Francus & Georgius hic in Cur pfer cujus dat est eisdem die & anno dedit & concessit pdict Franco Reynoldson Willo Bradford Georgio Woolfe & pdict Benjamino Whichcott Johi Ellum Johi Young Petro Sambrooke Willo Lawrence Thome Flint Andree Hodges Robto Tipper Ric Boote Henr Johnson Johi Kue Henr Hills & Johi Crapp pdict Rectoriam Scte Anne Blackfryars ad quam &c. hend & tenend pdict Rectoriam Scte Anne Blackfryars pdict ad quam &c. pdict Willo Bradford Franco Reynoldson Georgio Woolfe Benjamino W. J. E. J. Y. P. S. W. L. T. F. A. H. R. T. R. B. H. J. J. K. H. J. C.

&

& Johi Crapp & heredib; & assign suis impertinen Quor pretextu pdict W.B. F.R. & G.W. J.C. B.W. J.P. P.S. W.L. T.F. A.H. R.T. R.B. H.J. J.B. H.L. & J.C. fuer & devener seisit in dominico suo ut de feodo de & in rector impropriat pdict Sce Anne Blackfryars pdict ad quam &c. cum ptin Ac postea scilt ultimo die Julii anno Regni dicti Dni Caroli scdi nup Regis Angl &c. 25 pdict Jacobus Cade apud London pdict in Parochia Sce Andree Wardrobe pdict in Warda de Castle Baynard pdict obiit p cujus mortem Ecclesia pdict Scti Andree Wardrobe alias Scti Andree juxta Turrim sive Castrum Baynard anglice Baynards Castle in Warda de Castle Baynard pdict primo post confeccionem pdict actus Parliamenti vacavit ac sup inde idem dictus nup Rex Carolus Scdus scdm tenorem & purportum actus pdict in turno suo psentavit quendam Johem Stoung Clicum suu ad pdict Ecclesiam Scti Andree Wardrobe als Scti Andree Wardrobe juxta Turrim sive Castrum Baynard anglice Baynards Castle sic vacan qui ad presentacon ipsius nup Regis fuit ibm litime admissus institutus & inductus in eadem tempore pacis tempore ipsius dicti nup Regis Caroli Scdi que quidem psentaco fuit prima & pr' psentaco fact ad Ecclesiam ill post confeccon actus pdict Ac Ecclesia illa plena & consulta existen de eodem Johe Stoung pdict B.W. J.C. J.P. P.S. W.L. T.F. A.H. R.T. R.B. H.J. J.B. H.H. & J.C. apud London pdict in Parochia Scti Andree Wardrobe pdict in Warda de Castle Baynard pdict obier p quod pdict Francus Reynoldson Wills Bradford & Georgius Woolfe fuer seisit de pdict rectoria Sce Anne Blackfryars ad quam &c. in dominico suo ut de feodo p jus accrescendi & virtute actus Parliamenti pdict huer jus psentandi ad pdict Ecclesiam Scti Andree Wardrobe als Scti Andree juxta turrim sive Castrum Baynard anglice Baynards Castle cum vacan in turno suo ut Patron pdict Vicarie Sce Anne Blackfryars pdict Ac pdict Johes Stoung postea scilt 15 die Augusti anno Regni dni Regis nunc & dne Marie nup Regine Angl &c. sexto apud London pdict in Parochia Scti Andree Wardrobe pdict in Warda de Castle Baynard pdict obiit p cujus mortem Ecclesia pdict Scti Andree Wardrobe als Scti Andree juxta turrim sive Castrum Baynard anglice Baynards Castle vacavit Quor pretextu ad ipsos Francum Willm & Georgium idoneam personam ad Ecclesiam Scti Andree Wardrobe als Scti Andree juxta Turrim sive Castrum Baynard anglice Baynards Castle pdict sic vacan ut in turno suo ad psen ptinet psentare Et pdict Henr & Robtus Blake eos injuste impediunt unde dic qd deteriorat sunt & dampnum hent ad valentiam 100 l. Et inde pdc sectam &c.

J. C. died, by which St. *Andrews* was first vacant after the Act of Parliament, & K. *Charles* 2. presented *T. S.*

Who was instituted and inducted.

The Inhabitants of *Blackfryars* all dead but the Plaintiffs.

Whereby the surviving Inhabitants (the Plaintiff) ought to present.

Et pdict Robtus p Attorn suum ven & defend vim & injur quando &c. Et dic qd narraco pdict modo & forma pdict fact & declarat minus sufficien in lege existunt ad pdict Francum Willm & Georgium acconem suam pdict versus ipsum Robtum hend manutenend Ac ipse ad narr ill modo & forma pdict fact & declarat necesse non het nec p legem terre tenet aliquo modo respondere Et hoc parat est verificare unde p defec sufficien narr in hac parte idem Robtus pet Jud Et qd pdict Francus Willus & Georgius ab accone sua pdict hend precludant &c.

Defendants demur to the Declaration generally. Judgment *pro Quer'* but reversed in Parliament.

Joinder, &c.

Hill.

Hill. 7 & 8 W. & M. Rot. 964.

Dominus Rex & Dom' Regin' *versus* Episcop' London' & Lancaster.

Levinz Part III. fol. 377.

Co. 6. 26. *Hutton* 24. *Quare Impedit.*

Bp. of *London* seised of the Advowson in gross of St. *Martins* in the Fields.

Collates *Lamplugh.*

Who was creted Bp. of *Exon.*

Whereby it appertains to the King to present.

Who presented Dr. *Lloyd.*

Who was created Bp. of St. *Asaph.*

And so belongs to the King to present.

Who presented Dr. *Tenison.*

Who was creted Bp. of *Lincoln.*

So belongs to the King to present.

Middlesex ss. HEnricus Episcopus London & Willus Lancaster Sacre Theolog Professor sum fuer ad respond Dno Regi & Dne Regine de plito qd pmittant ipsos Dom Regem & Dom Reginam psentare idoneam personam ad Vicariam Ecclesie Sci Martini in Campis que vacat & ad suam spectat donaconem &c. Et unde Johes Somers Miles Attorn dictor Dni Regis & Dne Regine nunc Genalis qui p eisdem Dno Rege & Dna Regina sequit p eisdm Dno Rege & Dna Regina dicit pdict quidam Humfridus nuper Episcopus London fuit seisit de advocacone Vicarie Ecclesie Parochial Sci Martini in Campis pdict ut de uno grosso p se ut de feodo & jure in jure Episcopatus sui pdict Et sic inde seisit existen ipse pdict nup Episcopus eo qd eadem Vicaria fuit in Dioces sua London eandem Vicariam vacant contulit Thome Lamplugh Sacre Theologie Professori Clico suo qui virtute Collaconis illius in Corporal possession ejusdem Vicarie posit fuit tempore pacis tempore Dni Caroli scdi nuper Regis Angl &c. eodemq Thoma Vicar Vicarie pdict ut pfert existen idem Thomas Lamplugh postea in Epum Epatum Exon Rite & Canonice creat & consecrat fuit & Vicaria pdict vacavit p pmoconem dicti Thome Lamplugh ad pdict Epat Exon p qd ad eundem nuper Regem Carolum Scdm racone Prerogative sue Regie Corone sue Angl annex' idoneam psonam ad Vicariam pdict sic Vacantem ptinuit psentare p qd pdict nuper Rex Carolus Scds racone Prerogative sue Regie pdict ad Vicariam pdict tunc sic Vacantem psentavit Willm Lloyd Sacre Theologie Professorem Clicum suum qui ad eandem psentaconem ipsius nup Regis fuit admissus institut & induct in eadem tempore pacis tempore dicti nuper Regis eodemq Willo Lloyd Vicar Vicarie pdict ut pfert existen idem Willus Lloyd postea in Epm Epatum Asaphen Rite & Canonice creatus & consecratus fuit Et Vicaria pdict vacavit p pmoconem pdict Willi Lloyd ad pdict Epat Asaphen p quod ad eundem nuper Regem Carolum Scdm racone Prerogative sue Regie Corone sue Angl annex' idoneam psonam ad Vicariam pdict sic Vacantem ptinuit psentare p qd pdict nuper Rex Carolus Scds racone Prerogative sue Regie pdict ad Vicariam pdict sic tunc Vacantem psentavit Thomam Tenison Sacre Theologie Professorem Clicum suum qui ad eundm psentacnem ipsius nuper Regis fuit admissus institut & induct in eadem tempore pacis tempore dicti nuper Regis eodemq Thoma Tenison Vicar Vicarie pdict ut pfert existen idem Thomas Tenison postea in Epm Eptum Lincoln rite & canonice creat & consecrat fuit & Vicaria pdict vacavit p pmoconem dicti Thome Tenison ad pdict Epat Lincoln & adhuc Vacans existit p qd ad ipsos Dom Regem & Dom Regiam nunc racone Prerogative sue Regie pdict idoneam psonam ad Vicariam pdict sic Vacantem ad psens ptinet psentare Et pdict Hen Epus London & Willus Lancaster ipsos Dom Regem & Dom Reginam nunc injuste impediunt ad dampnu ipsor Dni Regis & Dne Regine nunc quingentar librar Et hoc idem Attorn dictor Dni Regis & Dne Regine nunc Genalis qui &c. p eisdem Dno Rege & Dna Regina parat est verificare &c. Et pdict Hen Henr Epus London & Willus Lancaster p Adam Baynes Attorn suum ven & defend vim & injur &c. Et pet auditu

brevis

brevis pdict Et eis legit in hec vba ss. Gulielmus & Maria Dei Gra Angl Scoc Franc & Hibine Rex & Regina fidei Defens &c. Vic Midd saltm Pcipe Hen Epo London & Willo Lancaster Sacre Theologie Professori qd juste & sine dilone permittant nos Psentare idoneam personam ad Vicariam Ecclesie Sci Martini in Campis que vacat & ad nostram spectat donaconem Et unde pdict Epus & Willus nos injuste impediunt ut dicit Et nisi fecint sum p bonos sum pdict Epm & Willum qd sint coram nob a die Sci Michis in tres Septimanas ubicumq tunc fuimus in Angl ostens quare non fecint Et heas ibi sum & hoc bre T. nob ipsis apud Westm vicesimo sexto die Novembris Anno Regni quarto nostri Quo lco & audito iidem Epus & Willus petunt Judicium de bri & narr pdict quia dic qd int bre & narr pdict matialis het variaco in hoc videlt qd ubi per bre pdcm pdci Dom Rex & Dom Regina intitulant se ad donaconem pdict Vicarie Ecclesie Sci Martini in Campis pleno jure tamen p narr pdict iidem Dom Rex & Dom Regina intitulant se ad donaconem ejusdem Vicarie racone Prerogative sue Regie Corone sue Angl annex unde p variacone pdict int bre & narr pdict iidem Epus & Willus petunt Judicium de bri & narr pdict Et quod bre ill cassetur &c. — Defend' plead in Abatement variance between the Writ and the Count.

Fr. Pemberton, Creswell Levinz, B. Shower.

Et pdict Attorn dict Dni Regis & Dne Regine nunc Genal qui p eisdem Dno Rege & Dna Regina nunc sequit p eisdem Dno Rege & Dom Regina dic qd pdict ptitum pdict Henrici Epi London & Willi Lancaster in cassacon bris pdict superius ptitat materiaq in eodem content minus sufficien in lege existunt ad bre pdict cassand Quq ipse idem Attorn Generat &c. p eisdem Dno Rege & Dna Regina ad ptitm ill modo & forma pdict ptitat necesse non het nec per legem terre tenet respondere Et hoc idem Attorn Genal &c. p eisdem Dno Rege & Dna Regina parat est verificare unde p defcu sufficien respons ipsor Epi & Willi in hac parte idem Attorn Genalis &c. p eisdem Dom Rege & Dna Regina pet Judicium & qd bre pdict bon adjudicet Et bre Epo &c. — AttorneyGen' demurs.

Edw. Ward, Tho. Trevor.

Et pdict Henr Epus London & Willus Lancaster dicunt qd pdict ptitum ipsor Henr Epi London & Willi Lancaster in cassacon bris pdict superius ptitat materiaq in eodem content bon & sufficien in lege existunt ad bre pdict cassand unde ex quo pdict Attorn dictor Dni Regis & Dne Regine nunc genalis ad ptitum ill non respond nec aliqualit dedic iidem Henr Epus London & Willus Lancaster ut prius petunt Judicium de bri & narr pdict Et qd bre ill casset &c. Sed quia Cur dict Dni Regis & Dne Regine nunc hic de Judicio suo de & super pmiss reddend nondum advisat dies inde dat est tam pfat Attorn Genali &c. quam pfat Henr Epo London & Willo Lancaster coram Dno Rege & Dna Regina usq a die Pasche in quinq Septimanas ubicunq &c. de Judicio suo de & super pmiss ill audiend eo qd Cur dict Dni Regis & Dne Regine hic inde nondum &c. Ad quem diem coram Dno Rege & Dna Regina apud Westm ven Edrus Ward Ar modo Attorn Dni Regis & Dne Regine nunc Genal qui p eisdem Dno Rege & Dna Regina in hac parte sequit in ppr persona sua quam pdict Henr Epus London & Willus Lancaster per Attorn suum pdict super quo Viss & per Cur dicti Dni Regis nunc hic plenius intellcis omnibus & singulis pmissis maturaq delibacone super inde hita p eo qd videbit Cur dictor Dni Regis & Dne Regine nunc hic qd pdict ptitum pdict Henr Epi London & Willi Lancaster in cassacon bris pdict superius ptitat materiaq in eodem content minus sufficien in lege existunt ad bre pdict cassand Cons est qd pdict Henricus Episcopus London & Willus Lancaster ad breve pdict re- — Judgment. *Respondeas ouster.*

spond &c. super quo pdict Henr Epus London & Willus Lancaster per pdict Adam Baynes Attorn suum ven & defend vim & injur quando &c. Et dic qd pdict Dom Rex & Dom Regina action suam pdict inde Vsus eos

The Bishop demurs upon the Count.

here seu manutere non debent quia idem Epus dic qd narr pdict materiaq; in eadem content minus sufficien in lege existunt ad ipsm Dom Regem & Dom Reginam ad accon suam pdict inde Vsus ipsm Epum hend manutenend Quoq; ipse ad narr pdict necesse non het nec per legem terre tenet aliquo modo respondere Et hoc parat est verificare unde p defectu sufficien narr in hac parte idem Henr Epus London pet Judiciu & qd pdict Dom Rex & Dom Regina ab accone sua pdict Vsus ipsum Epum hend pcludantur &c.

Lancast' pleads confessing the Seisin and Collation of *Lamplugh*, and all the Presentations by the King.

Et pdict Willus Lancaster dic qd ipse est Vicarius Vicarie Scti Martini in Campis pdict ex collacone pdict Henr Epi London quoq; bene & veru est qd pdict Humfridus nuper Epus London in narr pdict noiat fuit seisit de advocacone Vicarie Ecclesie Parochial Scti Martini in Campis pdict ut de uno grosso per se ut de feodo & jure in jure Epat sui pdict Et sic inde seisit existen ipse pdict nuper Epus eo qd eadem Vicaria fuit in Dioces sua London eandem Vicariam Vacantem contulit Thome Lamplugh Sacre Theologie Professor Clico suo qui virtute collaconis illius in corporal possession ejusdem Vicarie posit fuit tempore pacis tempore Dni Caroli Scdi nuper Regis Angl &c. Eodemq; Thoma Vicar Vicarie pdict ut pfert existen idem Thomas Lamplugh postea in Epum Epat Exon rite & canonice creat & consecrat fuit & Vicarie pdict vacavit per pmocon dicti Thome Lamplugh ad pdict Epat Exon quoq; pdict nuper Rex Carolus Scdus ad Vicariam pdict tunc sic Vacantem psentavit Willum Lloyd Sacre Theologie Professor Clicum suum qui ad eand psentacon ipsius nuper Regis fuit admissus institut & induct in eadem tempore pacis tempore dicti nuper Regis eodemq; Willo Lloyd Vicar Vicarie pdict ut pfert existen idem Willus Lloyd postea in Epm Epat Asaphen rite & canonice creat & consecrat fuit & Vicaria pdict vacavit per pmocon pdict Willi Lloyd ad pdict Epat Asaphen quoq; pdict nuper Rex Carolus Scdus ad Vicariam pdict sic tunc Vacantem psentavit Thom Tenison Sacre Theologie Professor Clicum suum qui ad eandem psentacon ipsius nuper Regis fuit admissus institut & induct in eadem tempore pacis tempore dicti nuper Regis Caroli Scdi modo & form put per narr pdict superius supponit sed idem Willus ulterius dic qd per

And pleads the Stat. 25 *H.* 8. of Dispensations.

quendm Actum in Parliamento Dni Henr nuper Regis Angl octavi apud Westm pdict decimo quinto die Januar anno Regni sui vicesimo quinto tent edit int al inactitat fuit authoritate ejusdem Parliamenti qd neq; dictus nup Rex heredes neq; Successores sui Reges hujus Regni neq; aliquis subditus ejusdm Regis hujus Regni neq; aliquor alior dominior ejusdm Regis extunc deinceps sequerent anglice should sue ad Epum Rome vocat the Pope vel ad Sedem Romanam anglice the See of Rome vel ad aliquam personam vel personas hentes vel ptenden aliquam authoritatem per eandem p licentiis dispensationib compositionib facultatib concessionib rescript delegat anglice Delegacies vel aliquib al instrument vel scriptis cujuscunq; generis nois nature vel qualitat forent p aliqua causa vel materia p qua aliqua licenc dispensatio compositio facultas concessio rescript delegat instrument sive aliud scriptum tunc pantea usitat & consuet fuisset heri & obtindi apud Sedem Romanam sive per authoritatem ejusdm aut de aliquo plat hujus Regni neq; p aliquib al Licenc dispensaconib composiconib facultatib concessionib rescript delegat vel aliquib al instrumentis vel scriptis que in causis necessitatis legitime concedi potuissent sive Offension sacre Scripture & legem Dei sed qd extunc deinceps quelibet hujusmodi licenc dispensatio compositio facultas concessio rescript delegat instrument & aliud scriptu supnominat & mentionat necessar p dicto nuper Rege hered vel successorib suis & ejus & eor Popul & Subdit super debit examination causar & qualitat personar pcurati hujusmodo dispensation licenc Composicon facultat concessiones rescript delegat instrument vel al script concederet heret & obtineret de tem-

pore

pore in tempus infra hoc suum Regnum & al' Regis dominia & non alibi in modo & forma sequen' & non alit' videl't Archiepus Cantuar' p tempore existen' & Successores sui herent potestatem & authoritat' de tempore in tempus p discretiones suas dand' concedend' & disponend' p instrument' sub sigillo pdict' Archi-Epi dicto nup Rege hered' & Successorib' suis Regib' hujus Regni tam omnod' hujusmodi licenc' dispensation' composition' facultat' concession' rescript' delegat' instrument' ac omnia aliqua Scripta p causis non existen' contrariis vel repugnant' sacris Scriptur' & legib' Dei sicut tunc pantea usitat' & consuet' fuissent heri & obtineri p dnm nuper Regem vel aliqm alim pnobil' Progenitor' suor' vel aliquem ejus sive eor' subditor' apud Sedem Romanam vel de aliqua psona vel pson' p Authoritatem ejusdem ac omnia alia licenc' dispensation' facultat' Composition' Concessiones rescript' delegat' instrument' & alia scripta in p & super omnib' hujusmodi causis & materiis que convenien' & necessar' forent heri p honore & securitat' dicti nuper Regis hered' & Successor' suor' & bono publico & pficuo hujus Regni dicti nuper Regis ita qd idem Archiepus vel aliquis Successor' suor' in nullo modo concederet aliqm dispensation' licenc' rescript' vel aliquod aliud Scriptum sup recitat' p aliqua causa ant materia repugnan' legi Dei Omnipotent' Aceciam inactitat' fuit Authoritat' pdict' qd pdict' Archiepus & Successores sui post bonam & debitam examination' p ipsos hit' de causis & qualitatib' psonar' pcuran' anglice procuring for licenc' dispensation' composition' facultat' delegat' recript' instrument' vel al' script' herent plenam potestatem & authoritatem p seipsos vel p eor' sufficien' & substantial' Commissar' vel Deputat' p eor' discretion' de tempore in tempus concedere & disponere p instrument' subnomine & sigillo pdict' Archiepi tam alicui subdit' dict' Regis quam subdit' hered' & successor' suor' omnod' licenc' dispensation' facultates Compositiones delegat' rescript' instrument' vel alia scripta p aliqua hujusmodi causa vel materia unde tunc pantea hujusmodi licenc' dispensation' composition' facultates delegat' rescript' instrument' vel scripta consuet' fuissent heri apud Sedem Romanam vel p Authoritat' ejusdem aut de aliquo plato hujus Regni Et qd pdict' Archiepus & Commissar' suus non concederent aliquam aliam licenc' dispensation' composition' facultat' scriptum sive instrumentum in causis insolit' & consuet' heri aut obtinidi apud Curiam Romanam neq p Authoritat' inde neq p aliqm platum hujus Regni quousq idem Rex hered' & Successores vel ejus sive eor' Consilium prius inde essent intimat' anglice advertised & determinarent utrum hujusmodi licenc' dispensationes Compositiones facultates ant alia scripta in hujusmodi causis insolit' & consuet' dispensari anglice to be dispensed withal vel obtinidi communit' transirent sicut alie dispensationes facultates aut alia scripta deberent vel non sub pena qd concessores cujuslibet t'lis licenc' dispensation' vel scripti in hujusmodi causis insolit' contra Actum pdict' facient finem ad voluntat' & bene plitum dicti Regis hered' & Successor' suor' Et si putaret' & determinaret' p dcm Regem hered' vel Successores suos vel p ejus vel eor' Consilium qd dispensationes facultates licenc' vel alia scripta in aliqua hujusmodi causa insolit' transirent tunc pdict' Archiepus vel ejus Commissar' hens licenc' a dicto Rege hered' vel Successor' suis pinde p ejus vel eor' bill' assignat' dispensarent cum eisdm scdm eand' pvisum semper fuit p eundm Actum qd nulle dispensationes licenc' facultat' vel alia rescript' vel script' extunc imposterum concedend' alicui psone vel psonis virtute vel authoritate Actus illius p pdict' Archiepum vel ejus Commissar' existen' de hujusmodi momento anglice Importance qd Taxaco anglice the Tax p expeditione inde apud Romam extenderet ad sumam quatuor librar' vel sup ullo modo pendent' in execution' quousq eadm licenc' dispensatio facultas rescript' vel aliud Scriptum cujuscunq nominis aut nature esset prius confirmat' esset p dcm Regis Celsitudinem hered' vel Successores suos Reges hujus Regni sub magno sigillo & Irrotulat' in ejusdem Regis Cancellar' in Rotlo p Clicum pinde appunctuand' qdq idem Actus foret sufficiend' Warrant' Cancellar' Angl' p tempore existen'

aut ill quem idem Rex vel Successores sui deputarent esse Custodem magni sigilli confirmare in nomine ejusdem Regis hered vel Successor suor p̄dict scripta fact anglice passed sub sigillo p̄dict Archiepi p literas patent in debit form̄ inde fiend sub magno sigillo ejusdem Regis remitten̄ tam p̄dict script sub sigillo Archiepi quam p̄dict confirmation̄ sub magno sigillo pertib3 de tempore in tempus pcurand p eisdem Ac qd omnia hujusmodo licenc dispensationes facultates & alia rescript & script p expeditione quor p̄dict taxac solvend apud Romam fuit sub quatuor libr que fuer materie non magni momenti anglice Importance transirent anglice should pass tantummodo p sigillu̅ Archiepi & non deberent de ulla necessitate confirmari p magnu̅ sigillu̅ nisi pcuratores hujusmodi licenc facultatis dispensationis desiderent here easdem sic confirmat in quo casu ipsi solverent p p̄dict magno sigillo ad usum dicti Regis hered & Successor suor quinq3 solidos Sterling & non ultra supra & pret talem taxationem quat extunc imposteru̅ limitaret p factura scriptura Registration̄ confirmation̄ & irrotlament hujusmodi licenciar confirmac oi̅u̅ & scripto4 sub p̄dict taxatio̅i quatuor libar4 ac qd quelibet hujusmodi licenc dispensatio compositio facultas rescript & script cujuscunq3 nominis vel nature esset p hujusmodi causis in quib3 taxaco solebat esse quatuor libr vel supra sic concess p Archiep̄um & confirmat sub magno sigillo ac omnia al licenc dispensation̄ composition̄ facultat rescript & script extunc imposteru̅ concedend p Archiep̄um virtute & Authoritat actus illius ad que magnu̅ sigillum non fuit limitat de necessitat apponi ratione qd taxatio eo4dem fuit sub quatuor libr acceptarent approbarent allocarent & admitterent bon̄ & effectual in lege in omnib3 locis Cur & Jurisdictionib3 tam Spiritualib3 quam Temporalib3 infra hoc Regnu̅ & alibi infra dominia dicti Regis & tam benefic personis obtinen̄ ead sicut ead essent si obtent fuissent cum omnib3 reb3 requisit a Sede Romana aut aliqua al person̄ p Authoritat ejusdem absq3 aliqua revocatione aut denullatione anglice Repeal extunc imposteru̅ hend de hujusmodi licenc dispensationib3 facultatib3 rescript vel script cujuscunq3 nature essent quoq3 omnes liberi pcreat post Solemnizationes aliquor Maritagio4 hend sive faciend virtute hujusmodi licenc sive dispensationu̅ admitterent reputarent & caperent legitimi in omnib3 Cur tam Spiritualib3 quam Temporalib3 & in omnib3 al locis & hereditarent heredicat Parentum & antecesso4 suor infra dictu̅ Regnu̅ ejusdem Regis & omnia alia dominia sua scdm leges & Consuetudines ejusdm̄ & omines Actus faciend habend vel exequend scdm tenorem hujusmodi licentia4 dispensationu̅ facultat scripto4 vel alior instrumento4 fiend sive concedend p Authoritat ejusdem Actus essent firma permanen̄ & remanen̄ in vigore aliquib3 forincesis legib3 constitutionib3 decretis Canonib3 Discretalib3 Inhibitionib3 usu consuetudine pscription̄ sive aliqua alia rehabit seu extunc imposteru̅ fiend in contrar non obstante put per eundem Actum inter alia plenius apparet Et idem Willus ulterius dic qd post confection̄ Act' p̄dict & diu ante impetration̄ b̄ris Originalis p̄dict p̄dict Henr modo Defend rite & canonice creat & consecrat fuit in Epum Epat London̄ scilt apud Westm̄ p̄dict quoq3 postea & ante impetration̄ ejusdm̄ b̄ris scilt vicesimo die Decembris anno Dn̄i 1691. p̄dict Thomas Tenison rite & debito modo elcus fuit in Epum Epat Lincoln̄ videlt apud Westm̄ p̄dict Quoq3 Johes pvidencia divina Cantuar Archiepus totius Angl Primas & Metropolitanus post edition̄ Act p̄dict

That the Arch-Bp. granted to Dr. *Tenison* a Dispensation to hold St. *Martins* in *Commendam* till 1 *July*.

& ante impetration̄ b̄ris p̄dict scilt vicesimo scdo die Decembris anno Dn̄i ult sup̄dict post debam examinacon̄ per ipsu̅ Archiep̄um hit de causis & qualitatib3 p̄dict Epi elect per quasdem literas suas dispensationis script scdm formam p̄dict Statuti supra recitat edit sub nomine ipsius Archiepi confect Ac sigillo ipsius Archiepi sigillat ac in Cur Cancellar dicor Regis & Regine nunc apud Westm̄ p̄dict debito modo irrotulat ac eidem Thome Tenison Sacre Theologie Doctori & Epo Lincoln̄ elco direct recitan̄ per

easdem

easdem liras dispensation qd ex parte dicti Epi Lincoln elect dco Archiepo significat fuit qd Epat Lincoln pdict fructus redditus & proventus adeo tenues exiles & diminut fuer ut dignitati sue Epali istis pertim temporib; nullo modo sufficerunt unde dcus Epus Lincoln elect dco Archiepo humilit supplicari fecisset quaten; ei de opportuno aliquo sublevamine in pmissis pvidere dcm Archiepum de Spirituali gra sua dignaret pdict Archiepus petitioni pdict obsecundare volens cum pdict Thoma Tenison (Epo Lincoln elect (juxta voluntatem Serenissimi Dnd nostri Regis Gulielmi dco Archiepo in hac parte significat) ut unacu Epat Lincoln Vicariam perpetuam Ecclesiam Parochiat Scd Martini in Campis & Rectoriam Ecclesie Parochiat Scd Jacobi Westm in Com Midd & Dioces London quas tunc dictus Epus Lincoln elect possidebat usq primu diem mensis Julii tunc prim a dat pdict literar dispensation retinere gaudere here & in commendam tenere in tam amplis modo & forma quib; antetunc usq tempus confection literar dispensation pdict dictus Epus Lincoln elcus retinebat & possidebat corpdimq fructus proventus aliaq pficua inde pvenien in ejus pprios usus & utilitatem convertere applicare & de eisdem dispendere dictus Epus London elect libe & licite valeret & posset eciamsi in dictis Vicaria & Rectoria pdict non resideret nec ullam moram ibm traxerit legitimam dicto Thome Tenison Sacre Theologie Doctori Epo Lincoln elco facultatem & Authoritatem dedit & concessit quantum in dicto Archiepo fuit & jura Regni patiebant & tenore dictar literar dispensation graciose dispensavit Canonicis institutis quib;cunq in contrariis non obstantib; pviso semper qd Vicaria perpetua Ecclesie Parochialis Scd Martini in Campis & Rectoria Ecclesie Parochialis Scd Jacobi Westm pdict debitis non frauderent obsequiis & animar Cure in eisdem nulla ten; negligent sed earund congrue supportarent onera debita & consueta pviso etiam semper qd dicte lre dispensation eidem Epo Lincoln elect non perficerunt nisi p lras patentes Regiar Majestatum forent confirmat put p easdem literas dispensation plene liquet Et idem Willus ulterius dic qd Dom Rex & Dom Regina nunc postea scilt Vicesimo tertio die Decembris anno Regni sui tertio apud Westm pdict per lras suas Patentes sub magno sigillo suo Angl sigillat geren dat eisdem die & anno & in Cur ipsor Dnd Regis & Dne Regine Cancellar apud Westm pdict scdm formam Statut pdict debito modo de Recordo irrotulat pdict lras dispensation & singula in eis contenta juxta pdict Actum Parliamenti ratificaver approbaver & confirmaver & p seipsis heredib; & Successorib; suis ratificaver approbaver & confirmaver ita qd dictus Reverendus in Christo Pater Thomas Epus Lincoln elect in dictis lris dispensation nominat omnib; & singulis in eisdem spec uti frui & potiri valeret & posset libere & quiete impune & licite scdm vim formam & effectu earund absq impedimento quocunq eo qd expressa mentio de certitudine pmissor aut de aliis donis sive concessionib; p pdict Dom Regem & Dom Reginam antetunc fact in dictis lris Patentib; mie fact extitit aut aliqua re causa vel materia quacunq in aliquo non obstan put p easdem lras Patentes plenius apparet Et idem Willus Lancaster ulterius dic qd pdict causa pqua pdict lre dispensation p pdict Archiepm & lre Patentes pdict p pdict Dom Regem & Reginam nunc sic ut pfect fact fuer non est contrar sive repugnans Sacre Scriptur & legib; Dei qdq hujusmodi lre dispensation p talib; causis ante edition pdict Act' Parliament usitat & consuet fuissent heri p hujusmodi Epos subditos dicti Dnd nuper Regis Henr octavi apud pdict Sedem Romanam qdq postea scilt vicesimo quinto die Decembris anno Dnd 1691. supradict pdict Thomas Tenison rite & canonice creat & consecrat fuit Epus Epat Lincoln pdict videlt apud Westm pdict qdq pdict Thomas Epus London pdict vigore pmissor huit & in suos pprios usus & utilitat convertit applicavit & disposuit oies & oiod fructus pventus aliaq pficua pdict Vicarie Ecclesie Parochiat Scd Martini in Campis pdict in Com

Midd

Confirmation of the Letters of Dispensation.

Tenison created Bp. of *Lincoln*.

Vidd usq; pdict primu diem Mensis Julii tunc px' a dat dictar trar dispensation pdict videlt apud Paroch pdict in Com pdict ad quem quidem diem Vicaria illa Ecclesie pdict scdm limitat in pdict tris dispensation menconat vigore pmissor vacavit scilt apud Westm pdict p quod idem Henr Epus London Vicariam illam sic Vacantem contulit eidem Willo Lancaster Clico suo Et eum in corporal possession ejusdem Vicarie poni fecit tempore pacis tempore dictor Dni Regis & Dne Regine nunc scilt apud Westm pdict idemq; Willus Vicarius Vicarie pdict ex collectione pdict Henr Epi London diu ante impetration bris Originalis pdict fuit & adhuc existit Et hoc idem Willus pat est verificare unde pet Judiciu si dict Dns Rex & Dna Regina actionem suam pdict versus ipsu Willum here debeant &c. Cum hoc qd pdict Willus verificare vult qd pdict Thomas Tenison in narr pdict superius nominat & pdict Thomas Tenison in tris dispensation pdict superius nominat sunt un & eadem persona & non al neq; diversa qdq; Vicarie Ecclesie Scti Martini in Campis in bri & narr pdict superius mentionat necnon Vicaria perpetua Ecclesie Parochialis Scti Martini in Campis in tris dispensation pdict mentionat sunt un & eadem & non al neq; diversa.

Then the Bp. of *London* collates *Lancaster*.

Averment of Identities.

Fr. Pemberton, Creswell Levinz, Bar. Shower.

Et pdict Edrus Ward Arm modo Attorn dictor Dni Regis & Dne Regine nunc Genal qui p eisdem Dno Rege & Dna Regina sequit quoad pdict ptitum pdict Epi London p dict Dno Rege & Dna Regina dic qd dict Dns Rex & Dna Regina p aliqua p pdict Henr Epum London superius ptitando allegat ab actione sua pdict inde versus ipsu Epum London hend pcludi non debent quia dic qd narratio pdict materiaq; in eadem content bon & sufficien in lege existunt ad ipsos Dom Regem & Dom Reginam ad action suam pdict versus pfat Epum London hend manutenend quam quidem Narration materiamq; in eadem content Idem Attorn Genal p eisdem Dom Rege & Dom Regina parat est verificare & pbare put Cur &c. Et quia pdict Epus London ad Narration ill non respond nec ill hucusq; aliqualit dedic idem Attorn Generat p eisdem Dom Rege & Dom Regina pet Judiciu versus pdict Epm London & bre Metropolitan eo qd pdict Epus London est pars & nominat in bri Originat ipsor Regis & Regin sibi adjudicari &c. Et quoad pdict ptitu pdict Willi Lancaster p ipsu Willum superius in barram ptitat idem Attorn Generat p eisdem Dom Rege & Dom Regina dic qd dict Dom Rex & Dom Regina p aliqua p pdict Willum Lancaster superius ptitando allegat ab actione sua pdict inde versus ipsum Willum hend pcludi non debent quia dic qd ptitum ill materiaq; in eodem content minus sufficien in lege existunt ad ipsos Dom Regem & Dom Reginam ab actione sua pdict versus pfat Willum Lancaster hend pcludend qdq; ipse p ipsis Dom Rege & Dom Regina ad ptitum ill modo & forma pdict superius ptitat necesse non het nec p legem tenet aliquo modo respondere Et hoc idem Attorn Generat p eisdem Dom Rege & Dom Regina pat est verificare unde p defectu sufficiend ptiti pdict Willi Lancaster in hac parte idem Attorn Generat p eisdem Dom Rege & Dom Regina pet Judiciu versus ipsu Willum & bre Metropolitan &c.

Attorney Gen' joins in Demurrer with the Bishop.

And demurs upon the Plea of *Lancaster*.

Jo. Tremaine.

Et

Et pdict Willus Lancaster dic qd plitum pdict p ipsum Willum modo & forma pdict superius plitat materiaq; in eodem content bon & sufficien in lege existunt ad ipsos Dom Regem & Dom Reginam ab actione sua pdict versus pdict Willum hend pcludend quod quidem plitum materiamq; in eodem content ipse idem Willus parat est verificare & pbare put Cur &c. Et quia pdict Attorn General p eisdem Dom Rege & Dom Regin ad plitum ill non respons nec ill huicusq; aliqualit dedic ipse idem Willus ut prius pet Judicium Et qd Dom Rex & Dom Regina ab actione sua pdict inde versus ipsum Willum hend pcludant &c. Sed quia Cur dictor Dni Regis & Dne Regine nunc hic de Judicio suo de & super pmissis reddend nondum advisat dies inde dat est tam pfat Attorn General Dni Regis & Dne Regine qui &c. quam pfat Henr Epo London & pdict Willo coram Dom Rege & Dom Regina usq; ubicunq; &c. de Judicio suo de & super pmissis ill inde audiend eo qd Cur dictor Dni Regis & Dne Regine hic inde nondum &c. Joinder in Demurrer.

Judgment pro Rege.

Replevin.

Replevin.

Trin. 36 Car. II. C.B.

Winford.

Aylesbury *versus* Harvey.

Levinz Part III. Fol. 204.

Stat. 13 *Car.* 2. *cap.* 3. Replevin. 3 Cro. 568. Trin. 15 Ed. 4. pl. 8. Hill. 35 H. 6. pl. 1. Rast. Entr. 606, 341.

Warr' ss. Edwardus Harvey Richardus Dolton & Thomas Leihc sum̄ fuer' ad respondend̄ Christophero Aylesbury de p̄lito quare ceperunt Bona & Catalla ipsius C. & ea injuste detinuer' contra vad̄ & pleḡ &c. Et unde idem C. p̄ Edrum̄ Willes Attorn̄ suū querit qd̄ cum p̄dict Edrus̄ Ric' & Thō primo die Septembr' anno Regni Dnī Regis nunc tricesimo tertio apud Warwicū in quodam loco ibm̄ vocat the House ceperunt bona & catalla videlt unum poculū Argenteū vocat a Silver Kan p̄cii Centum Solidor̄ & unum Salinū Argenteū vocat a Silver Saltseller p̄cij Sexaginta & sex Solidor̄ ipsius C. Et ea injuste detinuer' contra vad̄ & pleḡ &c. unde dic' qd̄ deteriorat est & dampnū het ad valenc' viginti librar̄ Et inde p̄duc' sectam &c.

Defendants justify that the Plaintiff is a Distiller, and did not make due Entties in the Excise-Office.

Et p̄dict Edrus̄ Ricus & Thomas p̄ Edrum̄ Noell Attorn̄ suum ven̄ & defend̄ vim & injur' quando &c. Et dic' qd̄ p̄dict C. actionē suam p̄dict versus eos here non debet quia dic' qd̄ p̄dict C. p̄dict tempore quo supponit captionem donor̄ & catallor̄ p̄dict fieri & p̄ spaciū quatuor annor̄ tunc ult elaps̄ fuit communis Distillator & Retalliator Aqua Vite (anglice Strong-water) in Burgo de W. p̄dict in Com̄ p̄dict eodem Burgo adtunc & adhuc existen̄ villa m̄catoria Ac idem X̄poferus p̄ totum tempus p̄dict usus fuit & exercuit Artem & Misterium communis Distillatoris & Retalliator' Aqua Vite in p̄dict loco in quo &c. Ac infra tempus illud apud Burgum de W. p̄dict fecisset diṽsas quantitates & Congios (anglice Gallons) Aqua Vite & non fecisset debit & particular' intrationem inde apud Officiū Dnī Regis de le Excisa in Burgo de W. p̄dict scd̄m formam Statut inde nuper edit & provis̄

Stat. 13 *Car.* 2. *cap.* 2.

Et p̄dict Edrus̄ Ricus̄ & Thomas ulterius dic' quod ante p̄dict tempus quo &c. scilt primo die Junii anno Regni Dnī Regis nunc tricesimo apud Burgum de W. p̄dict Ric' Daulton juxta formam Stat inde nuper edit & p̄vis̄ adtunc coram Willo Rothwell Armiḡ (adtunc Majore Burgi de W. p̄dict) Willo Hinde & Thoma Gibbs adtunc trib3 Justic' Dnī Regis ad pacem in p̄dict in Burgo de W. conservand̄ assigñ residen̄ infra Burgum de W. p̄dict quandam Informationem ṽsus p̄dict C. & p̄ eandem Informationē dedit eisdem Justic' intelligi & informari qd̄ idem X̄poferus inhitans & custod̄ communem domum Distillator' anglice vocat (a Common Distilling-house) infra Burgum de W. p̄dict in domo sua ibm̄ fecisset viginti & quatuor Congios Aqua Vite (anglice Strong-water) & non fecisset debit & particular' intrationem inde apud Officiū dicti Dnī Regis nunc de le Excisa infra Burgum de W. p̄dict scd̄m formam Statuti inde edit & p̄vis̄ ad quam quidem

Information before three Justices of the Peace.

dem Informacion sic ut pferr exhibit pdict C. debe & ligitime ad inde sum existen coram eisdem W.R. W.H. & T.G. postea scilt sexto die Junii anno Regni dicti Dni Regis nunc tricessimo tertio supradicto apud Burgum de W. pdict comperuit & adtunc & ibm dixit qd ipse non fuit Culpabilis de pmissis in Informacion pdict specificat super quo iidem W.R. W.H. & T.G. ad instanc pdict Ricd Daulton adtunc & ibm pcedebant ad examinand materiam facti Offens in Informatione pdict spec ac eo qd eisdem W.R. W.H. & T.G. super debam examinationem inde hit & super debam pbationem inde p sacrm credebil testim coram eis jurat constabat qd pdict C. fecisset pdict viginti & quatuor Congios Aqua Vite anglice Strongwater & non fecisset debit & particular intracion inde apud Officiu dicti Dni Regis de le Excisa infra Burgum de W. pdict juxta formam Statuti pdict Jo iidem W.R. W.H. & T.G. deba consideratione hita de pmissis adtunc & ibm adjudicaver qd pdict C. p offens pdict forisfacet summam viginti solidor de bonis & catallis suis levand tres quartas partes inde dicto Dno Regi nunc Heredib; Successorib; suis & al quartam partem inde pfat Rico Daulton put patet p Record Informacion & judicii ilt iidem W.R. W.H. & T.G. postea scilt eodem sexto die Junii anno tricessimo tertio supdicto apud Burgum de W. pdict quoddm Warrantu suu in scriptis sup Judicio pdict sub manib; suis fecer & idem Warrant Officiar dicti Dni Regis de le Excisa infra Burgum pdict direxer p quod quidem Warrantu iidem W.R. W.H. & T.G. in nomine ipsius Dni Regis nunc pcipuer & authorizaver eisdem Officiariis dicti Dni Regis de le Excisa infra Burgum pdict distringe tantum de bonis & catallis pdict C. quant foret sufficien ad satisfaciend pdict viginti solidos & eadem bona & catalla sic districta vendere si non forent redempt infra quatuordecim dies px' post districtionem eordem reddend eidem C. surplusag (anglice the Surplus) si aliquod foret scdm directionem Statut & Act' Excise in ea pte virtute cujus Warranti idem Edrus Ricus Daulton & Thomas Leigh adtunc existen Officiar dicti Dni Regis de le Excisa infra Burgum de W. pdict debo modo constitut & appunctuat pdict tempore quo &c. bona & catalla in Narr pdict spec ceper & distrixer p pdict viginti solid put eis bene licuit Et pdict Edrus Ricus & Thomas ulterius dic qd postea scilt pdict primo die Septembr anno tricesimo tertio supdicto idem C. p redemption bonor & catallor pdict apud Burgum de W. pdict solvit eisdem Edo Rico & Thome pdict viginti solid iidemq Edrus Ricus & Thomas supinde adtunc & ibm bona & catalla pdict eidem C. redelibaver que est eadem capco & detenco bonor & callor pdict unde pdict C. superius se modo querit Et hoc parat sunt verificare unde pet judiciu si pdict C. actionem suam pdict inde versus eos here debeat &c.

Plaintiff appears.

And was convict.

And adjudged to forfeit 20 s.

The Justices make their Warrant to the Officers of Excise to distrain.

Distress made.

The Plaintiff pays 20 s. for the Redemption of his Goods, which they delivered to him.

Et pdict Christopherus dic qd ipse p aliqua p pdict Edrum Ricum & Thomam superius pltitando allegat ab actione sua pdict inde versus eos hend pcludi non debet quia dic qd quidam Edrus Aylesbury modo defunct diu ante pdict tempus quo &c. scilt decimo nono die Maii anno Dni 1666. apud Warwic pdict possessionat fuisset de bonis & catallis pdict ut de bonis & catallis suis ppr Et sic inde possessionat existen idem Edrus Aylesbury eodem decimo nono die Maii anno Dni 1666. supdicto apud W. pdict condidit testm & ult voluntatem in scriptis & p eadem testam & ultimam voluntatem suam constituit pdict Christopheru inde Executorem posteaq scilt quarto die Junii anno Dni 1666. supdicto idem Edrus Aylesbury apud W. pdict obiit de bonis & catallis pdict sic ut pferr possessionat existen post cujus mortem scilt septimo die Junii anno Dni 1666. supdicto apud W. pdict pdict C. cujus execution testi pdict super se suscepit & testam ilt adtunc & ibm deba juris forma pbavit p quod idem C. diu ante pdict tempus quo &c. fuit de bonis & catallis in Narr pdict spec possessionat ratione execution testi pdict scilt apud W. pdict. Et sic inde possessionat continuavit quousq pdict Edrus Harvey Ricus & Thomas die & anno in Narr pdict spec de injur sua

Replication.

That *E. A. anno 1666.* was possest of the said Goods, and *eod. an* made his Last Will, and made the Plaintiff Executrix, & died, who proved the Will, and hath continued ever since possest of the said Goods.

sua ppr' ceperunt bona & catalla pdict in Mar' pdict spec' & ea injuste detinuer' contra vad & pleg &c. put idem C. superius versus eos querit Et hoc parat est verificare unde pet judiciu & dampna sua occone capconis & injuste detencionis bonoꝝ & catalloꝝ pdict sibi adjudicari &c. Et idem C. pfert hic in Cur' lras testamentar' pdict Edi p quas satis liquet Cur' hic ipsu Christopherum fore Executorem testamenti pdict Et inde here Administration &c.

Defend' demur on the Replication generally.

Et pdicti Edrus Ricus & Thomas dic qd plitum pdict pdict Christopheri superius replicando plitat minꝰ sufficiens in lege existit ad pdict C. actionem suam pdict versus ipsos hend manutenend Qdq ipsi ad plitum ill modo & forma pdict plitat necesse non hent nec p legem terre tenent respondere Et hoc parat sunt verificare unde p defectu sufficien Replicationis ipsius C. in hac parte iidem Edrus Ricus & Thomas pet judiciu & qd pdict C. ab actione sua pdict hend pcludat &c.

Joinder in Demurrer.

Et pdict Christopherus ex quo ipse sufficien materiam in lege ad actionem suam pdict versus pfat Edrum Ricum & Thomam hend manutenend supius replicando allegavit quam ipse parat est verificare quam quidem materiam pdict Edrus Ricus & Thomas non dedic nec ad eam aliqualit respond sed verificationem ill admittere omnino recusant ut prius pet judiciu & dampna sua occone capcon & injuste detencon bonoꝝ & catalloꝝ pdict sibi adjudicari &c. Et quia Justic hic se advisare volunt &c.

Judgment pro Quer' Vide le Reports.

Mich. 34 Car. II.

Wyrley.

Wells *versus* Cotterell.

Levinz Part III. fol. 48.

Replevin.

2 Inst. 312.

Glouc' ss. Henr' Cotterell & Gerardus Pope sum fuer' ad respondend Johi Wells Gen de plito quare ceper' averia ipsius Johis & ea injuste detinuer' contra vad & pleg &c. Et unde idem Johes p Willum Bagnall Attorn suum querit qd pdict Henr' & Gerardus vicesimo primo die Aprilis anno Regni Dni Regis nunc tricesimo scdo apud Paroch de Leigh in quodam loco ibm vocat le Home Court ceper' averia ipsius Johis videlt quatuor vaccas Et ea injuste detinuer' contra vad & pleg quousq &c. unde dic qd deterioꝛat est Et dampnu het ad valentiam viginti libraꝝ Et inde produc sectam &c.

Avowry.

Et pdict Henr' & Gerardus p Jacobum Sympson Attorn suum ven & defend vim & injur' quando &c. Et ut Ballivi Willi Dowdeswell Armigi bene cogn captionem averioꝝ pdict in pdict loco in quo &c. Et juste &c. Quia dic qd idem locus in quo supponit captionem averioꝝ pdict fieri continet & pdict tempore quo supponit captionem averioꝝ illoꝝ fieri continebat in se duas acras terre cum ptin in Parochia de Leigh pdict in quadem Willa ibm vocat Evington qdq diu ante pdict tempus quo &c. Decanus & Capitulm Collegiat Scti Petri Westm fuer seisit de Manerio de Durhurst als Dorehurst als Playstow cum ptin in Com pdict infra Precinct cujus quidem Manerii tam pdict locus in quo &c. quam Willa de Evington pdict in pdict Parochiat de Leigh in Com pdict sunt Et pdict tempore quo &c. fuer

Dean & Chapt. of *Westm.* seised of the Manor of *D.* in fee, *in jure Ecclesiæ.*

fuer' in dominico suo ut de feodo in jure Ecclesie sue pdict infra quod quidm Manerium hēt & a tempore cujus contrar' memoria hominum non existit hebat talis consuetudo videlt qd omins tenem & occupatores terrar & tentor in pdict Willa de Evington (hentes coiam pasture ad tenta sua ibm respective spectam & ptinem in quadam parcell pasture vocat Incham Common infra Manerium pdict) a tempore cujus contrar' memoria homin non existit usi fuer' & consuever' face erige constituere & manutenere quendam pontem anglice vocat Micknell-Bridge in Evington pdict in Parochia de Leigh pdict in pdict parcell pasture ibm vocat Incham Common p usu & beneficio tenem Manerii pdict hem communiam pasture in pdict pastura vocat Incham Common Necnon infra Manerii pdict hēt & a toto tempore cujus contrarii memoria homin non existit hebat talis al consuetudo videlt qd Seneschallus Cur' Baron Manerii pdict p tempore existen cum assensu & consensu homagii Manerii pdict ibm jurat & onerat vel major pars ejusdem ad Cur' Baron Manerii illius de tempore in tempus fecer' & constituer' & usus fuit & consuevit face & constituere quandocunq necesse fuisset rationabil Leges anglice By-Laws Ordines & Constitutiones & imponere penalitates & forisfactur' super quemlibt tenem vel Occupatorem vel tenem vel Occupatores aliquor terrar seu tenementor infra pcinct ejusdem Manerii contra hujusmodi leges Ordines & Constitutiones delinquem p bonis gubernatione & ordinatione infra pcinct Manerii illius hend & conservand Dno Manerii illius p tempore existen forisfaciend Necnon Decanus & Capitulm ac omnes illi quor Stat ipsi iidem Decanus & Capitulm huer' in Manerio cum ptin a tempore cujus contrarii memoria homin non existit usi fuer' & consuever' p omnib; hujusmodi penalitat & forisfactur' sic impoit & forisfact distringe averia ill contra hujusmodi leges Ordines & Constitutiones delinquem infra pcinct Manerii pdict super psentationem hujusmodi Offens & delinquem ad Cur' Baron Manerii pdict sic ut pfert tent & tenend pdicq Decano & Capitulo de Manerio pdict cum ptin sic ut pfert seisit existen p quandm Indenturam gerem dat vicesimo die Junii anno Regni Dni Regis nunc quinto decimo fact apud Parochiam de Leigh pdict int ipsos Decan & Capitlm p nomin Johis Dolben Sacre Theologie Professoris Decan Collegiat Scti Petri Westm & Capitali ejusdem Ecclesie ex una parte Et quendem Ricum Dowdeswell Arm jam defunct nuper prem ipsius Willi Dowdeswell p nomen Ric Dowdeswell de Poole Court in Com Wigorn Arm ex altera parte cujus quidem unam partem sub communi sigillo pdict Decani & Capituli sigillat iidem Henr' & Gerardus hic in Cur' pfer' cujus dat est eisdem die & anno ult mentionat iidem Decanus & Capitulm ex unanimi assensu & consensu p se & Successorib; suis dimiser' concesser' & ad firmam tradider' pfat Rico Dowdeswell int alia Manerium pdict cum ptin hend & tenend eidem Rico Dowdeswell hered & assign suis a sigillatione & deliberatione ejusdem Indenture p & duran naturalib; vitis pdict Willi Dowdeswell & cujusdam Caroli Dowdeswell alterius filii pdict Ric Dowdeswell & cujusdam Ric Dowdeswell Gen filii ipsius Willi Dowdeswell Et p & duran vita diutius eor viven put p eandem Indenturam int alia plenius apparet virtute cujus quidem dimissionis & concessionis pdict Ricus Dowdeswell Pater fuit seisit de Manerio pdict cum ptin in dominico suo ut de libero tenemento p termino vitar pdict Willi Dowdeswell Caroli Dowdeswell & Ric Dowdeswell filii ipsius Willi & vite diutius eor vivem Et sic inde seisit existen pdict Ric Dowdeswell Pater postea scilt vicesimo tertio die Septembris anno Regni dicti Dni Regis nunc vicesimo quinto apud Parochiam de Leigh pdict de tali Statu suo seisit obiit post cujus mortem Manerium pdict cum ptin descendebat eidem Willo Dowdeswell ut filio & hered pdict Ric Dowdeswell patris p quod idem Willus postea & ante pdict tempus quo &c. in Manerium pdict cum ptin intravit & fuit & adhuc est inde seisit in dominico suo ut de libero tenemento p termino vitar ipsius Willi Dowdeswell & pdict Caroli Dowdeswell & Ric Dowdeswell filii & vite diutius eor viven Et sic inde seisit existen postea

In which Manor is a Custom that all the Tenants of Land in *E.* (having Common of Pasture to their Tenements belonging) have used to repair a Bridge in *E.*

Another Custom, that the Steward of the Manor, with the assent of the Homage, make make By-Laws, and impose Penalties on the Offenders to be forfeited to the Lord.

And the Lord to distrain for the Penalties.

Avowant derives a Title from the Dean and Chapter.

postea & ante p̄dict tempus quo &c. Ad Cur' Baron ipsius Willi Dowdeswell Manerii sui p̄dict tent p Manerio p̄dict apud Manerium illud vicesimo primo die Aprilis anno Regni dicti Dnī Regis nunc tricesimo primo p tunc homagium Cur' p̄dict scilt Edmundum Smith Jun Gen Johem Beale Thomam Cox & Thomam Butt tenen Manerii p̄dict ad inquirend de hiis que ad eandem Cur' ptinuer adtunc & ibm jurat & onerat coram Thoma Pury Gen tunc Senesllo Cur' Baron p̄dict p̄sentat fuit qd p̄dict Pons vocat Micknell-Bridge in Evington p̄dict in Parochia de Leigh p̄dict in p̄dict parcell pasture ibm vocat Incham Common irreparat fuit Et adhuc p Seneschallum p̄dict ex assensu & consensu p̄dict homagii Cur' p̄dict Ordinat fuit qd Inhabitantes de Evington p̄dict qui huer communiam in p̄dict parcell pastur voc Incham Common facerent locarent & erigent aut causarent fieri locari & erigi sufficientem pontem ibm ante vicesimum quartum diem Maii tunc px' sequen aut alit deficerent forisfacerent & solverent Dnō Manerii p̄dict quinq; libras legalis monet Angl Et iidem Henr & Gerardus ulterius dic qd p̄dict Johes Wells p̄dict tempore quo &c. ac p̄dict vicesimo primo die Aprilis anno tricesimo primo supradicto & diu antea & postea fuit & adhuc existit Inhabitans & Occupator unius Mesuagii viginti acrar terre viginti acrar prati & viginti acrar pasture cum ptin in Evington p̄dict in Parochial de Leigh p̄dict infra p̄cinct ejusdem Manerii & habuit Communiam in p̄dict pcella pastur voc Incham Common Et postea & ante p̄dict vicesimum quartum diem Maii anno tricesimo primo supradicto scilt vicesimo scdo die Aprilis anno tricesimo primo supradicto apud Parochiam de Leigh p̄dict p̄dict Johes Wells & Inhabitan Ville de Evington p̄dict huer noticiam Ordinis p̄dict sic ut p̄fert fact Atq; ad Cur' Baron p̄dict Willi Dowdeswell Manerii sui p̄dict tent p Manerio p̄dict apud Manerium illud decimo sexto die Octobris anno tricesimo primo supradicto p tunc homagium Cur' p̄dict videlt p Edmundum Smith Generosum Johem Beale Thomam Cocks Thomam Newman Willum Sutton Thomam Greenway & Thomam Butt tenen Manerii p̄dict ad inquirend de hiis que ad Manerium illud ptinuer adtunc & ibm jurat & onerat coram Rico Dowdeswell Arm tunc Senesllo Cur' Baron p̄dict p̄sentat fuit qd Inhabitantes de Evington p̄dict non fecer vel locaver vel causassent fieri & locari sufficientem pontem in p̄dict Villa de Evington p̄dict in p̄dict parcell pasture ibm vocat Incham Common ante p̄dict vicesimum quartum diem Maii anno tricesimo primo supradicto scdm p̄dict Ordinem in Cur' Manerii p̄dict tent p Manerio illo p̄dict vicesimo primo die Aprilis anno tricesimo primo supradicto ut p̄fert fact Ob qd p̄dict pena quinq; librar eidem Willo Dowdeswell de Manerio p̄dict cum ptin in forma p̄dict seisit existen forisfact fuit Et quia p̄dict quinq; libr' p̄dict tempore quo &c. eidem Willo Dowdeswell fuer insolut iidem Henr & Gerardus ut Ballivi p̄dict Willi Dowdeswell bene cogn captionem averior p̄dict in p̄dict loco in quo &c. infra p̄cinct Manerii p̄dict Et juste &c. p octoginta solidis de p̄dict quinq; libris de pena p̄dict eidem Willo Dowdeswell sic forisfact & aretro existen & non solut &c.

Presentment by the Homage at a Court-Baron, that the Bridge was out of Repair.

Ordinance made that the Inhabitants Commoners, should repair the Bridge before such a time on forfeiture of 5 l. to the Lord of the Manor. That the Plaintiffs in the Replevin were Commoners & Inhabitants. And that they had notice of this By-Law.

At a Court-Baron it was presented by the Homage, that this Bridg was not repaired at the day.

By reason whereof 5 l. was forfeited to the Lord. And justify the Distress.

Et p̄dict Johes Wells dic qd p̄dict Henr' Cotterell & Gerardus ratione p̄allegat ut Ballivi p̄dict Willi Dowdeswell captionem averior p̄dict in p̄dict loco in quo &c. justam cognoscere non debent quia dic qd p̄dict Henr & Gerardus de injur sua ppr' & absq; aliqua causa p ipsos superius allegat p̄dicto vicesimo primo die Aprilis anno tricesimo scdo supradicto apud p̄dict Parochiam de Leigh in p̄dict loco vocat Home Court ceperunt averia p̄dict ipsius Johis Et ea injuste detinuer contra vad & pleg quousq; &c. prout ipse idem Johes superius usus versus eos queritur Et de hoc pet qd inquiratur p patriam &c.

Plea *de injuria sua propria absq;* &c.

Et

Et predict Henr Cotterel & Gerardus dic quod predict placitum predict Johis Wells superius in barram cognitionis predict placitat materiaque in eodem content minus sufficiend in lege existunt ad ipsos Henric & Gerardum ut Ballivos predict Willi Dowdeswel a justa cognitione caption averiorum predict in predict loco in quo &c. precludend quoque ipsi ad placitum illud modo & forma predict placitat necesse non habent nec per legem terre tenentur respondere Et hoc parat sunt verificare unde pro defectu sufficiend placiti ipsius Johis Wells in hac parte iidem Henr & Gerardus pet Judicium Et retorn averiorum predict unacum dampnis &c. sibi adjudicari &c. Demur general.

Et predict Johes Wells ex quo ipse sufficiend materiam in lege in placito suo predict ad predict Henr & Gerardum ut ballivos predict Willi Dowdeswel a juste cognoscend captionem averiorum predict in predict loco in quo &c. precludend superius allegavit quam ipse parat est verificare quam quidem materiam predict Henr & Gerardus non dedic nec ad eam aliqualit respond set verificationem illam admictere omnino recusant idem Johes Wells ut prius pet Judicium & dampna sua occasione captionis & injuste detentionis averiorum predict sibi adjudicari &c. Et quia Justic hic se advisare volunt de & super premissis priusquam Judicium inde reddant dies dat est partibus predict hicusque in Octabis Sci Hillarii de audiendo inde Judicio suo eo quod iidem Justic hic inde nondum &c. Joinder in Demurrer.

Judgment pro Quer. Vide le Report.

Trin. 5 W. & M.

Coke.

Osmer *versus* Sheaf.

Levinz Part III. Fol. 370.

RIchardus Sheaf sum fuit ad respondend Henr Osmer de placito quare cepit averia ipsius Henr & ea injuste detinuit contra vad & pleg &c. Et unde idem Henr per Antonium Bowe Attornatum suum queritur quod predict Ricus vicesimo die Aprilis anno Regni Dni Regis & Dne Regine nunc quinto apud Godmersham in quodam loco ibm vocat Yew-tree Field cepit averia ipsius Henrici videlt quatuor spadones unam equam unam vaccam & unam juvencam Anglice Heifer & ea injuste detinuit contra vad & pleg quousque &c. Unde dic quod deterior at est Et dampnum habet ad valentiam triginta librarum Et inde producit sectam &c.

Et predict Ricus Sheaf per Johem Wade Attorn suum ven & defend vim & injuriam quando &c. Et ut ballius Danielis Wilmot bene cogn captionem averiorum predict in predict loco in quo supponitur captionem eorundem fieri Et juste &c. Quia dic quod diu ante captionem averiorum predict quidam Johes Chapman genosus fuit seisit de predict loco in quo &c. inter alia in dominico suo ut de feodo Et sic inde seisit existend idem Johes Chapman quarto die Decembris anno Regni Dni Caroli primi nuper Regis Anglie &c. decimo tertio apud Godmersham predict per quandam Indenturam tunc & ibm fact inter eundem Johem Chapman de Eythorn in Com Kanc Gen ex una parte & quandam Moradiam Taylor de Godmersham in Com Kanc Spinster ex altera pte Cujus alteram ptem sigillo ipsius Johis Chapman sigillat

Dyer 307, 308, 247. *b.* 2 *Roll.* 794. *Hill.* 2 *W. & M. in B. C. Rot.* 420. *Carter & Madgwick's Case. Trin.* 13 *Car.* 2. *Rot.*763. *Pybus & Mitford.* 2 *Rol.* 789. *Pitfield & Peirse.* 1 *Inst.*49. *Pasch.* 22 *Car.* 2. *B.R. Rot.* 871. *Cross & Scudamor's Case.* 2 *Rolls* 786, 787. *Trin.* 29 *Car.* 2. *B.R. Rot.*90. *Coleman & Senhouse.* 3 *Leon.* 16. *M.*29 *Car.* 2. *in Scac. Walker & Hull.*

lat

That J. C. 12 Car. 2. granted an Annuity to M. T. in Fee.

dat idem Ricus Sheaf hic in Cur profert cujus dat est eisdem die & anno dedit & concessit eidem Morgavie Taylor unam annuitatem sive annual reddit onerat quatuordecim librar per annum bone & legalis monete Anglie exeund levand & percipiend ex loco predict inter alia per nomina omnium & singulorum terrar tenementor & hereditamentorum ipsius Johis Chapman scituat jacend & existend infra dcam parochiam de Godmersham in Com Canc habend & tenend levand & percipiend dict annuitatem sive annual reddit eidem Morabie Taylor heredibus & assign suis ad usum dict Morgavie Taylor hered & assign suorum imppm sup quartum diem Junii & quartum diem Decembris p equales porcones annuatim imperpm solvend prima solutione inde incipiend & solvend super quartum diem Junii prox. sequen post dat ejusdem Indenture de qua quidem annuitate sive annual reddit onerat dict Johes Chapman tunc & ibm posuit dcam Morgaviam Taylor in plena & pacifica Seisin per traditionem

Seisin by 6 d.

sex denarior eidem Morabie Taylor in nomine Seisine dce annuitatis sive annual reddit reddit onerat Et ulterius idem Johes Chapman p eandem Indenturam concessit & conveniebat eidem Morabie Taylor heredibus & assign suis qd si contingeret predict annuitatem sive annual reddit onerat quatuordecim librar per annum aretro fore vel insolut in pte vel in toto post

Clause of Distress.

aliquem diem dier super quo aut apud quem limitat solvend tunc & abinde licitum foret eidem Morabie heredib & assign suis intrare & distringere in & super omnia & singula terras tenementa & hereditamenta predict ipsius Johis Chapman & districtionem & districtiones ibm invent licite capere & abinde asportare fugare ducere imparcare detinere & custodire quousq predict annuitas sive annual reddit onerat quatuordecim librar quelibet pars ejusdem & omnia arreragia inde si que fuer simulcum custagiis & dampnis sustent ea occasione eidem Morabie Taylor heredibus & assign suis plene satisfact & solut forent put p eandem Indenturam inter alia plenius apparet Virtute cujus quidem concessionis eadem Morabia seisit fuit de predict annuitat sive annual reddit onerat in dominico suo ut de feodo Et sic inde seisit existen postea & ante predict tempus captionis averior predict scilt tricesimo die Maij anno Regni Dni Caroli scdi nuper Regis Angl &c. duodecimo eadem Morabia apud Godmersham predict obiit de annual reddit onerat vel

M. T. dies, and the Annuity discends to M. W. her Daughter and Heir.

annuitat predict sic ut pfertur seisit post cujus mortem eadem annuitas vel annual reddit onerat discendebat cuidam Marie Waller ut filie & hered ipius Morabie Taylor p quod eadem Maria Waller fuit seisit de eadem annuitat sive annual reddit onerat in dominico suo ut de feodo Et sic inde seisit existen eadem Maria Waller postea & ante predict tempus quo &c. scilt vicesimo tertio die Januarii anno Regni dci Domi Caroli scdi nup Regis Angl &c. vicesimo apud Godmersham predict per quoddam scriptum p ipsam tunc & ibidem fact qd idem Ricus Sheaf sigillo ipsius Marie sigillat hic in Cur pfert gerend dat eisdem die & anno ult mentionat conveniebat p se & heredibus suis ad & cum Willo Brodnex Mil (consanguineo ipsius Marie tunc

M.W. covenants with Sir W. B. to stand seised of the said Rent to the use of him and his Heirs, if she dies without a Child.

& ibm existen) & heredib suis p & in consideratione amoris bone voluntatis & affectionis quam eadem Maria gerebat erga dcm Willum Brodnex & p diversis al bonis causis & consideraconibus eandem Mariam moven qd eadem Maria Waller & hered sui deinceps imperpetuum starent & seisit forent de predict annuitat sive annual reddit onerat ad usum predict Willi Brodnex & hered suor imperpetuum si eadem Maria obieret sine aliquo libero Anglice Child de corpore ipius Marie legitime procreat & viven post decessum suum Et predict Maria sic inde seisit existen eadem Maria postea & ante predict tempus quo &c. necnon antequam reddit predict aut aliqua pars inde debit &

She dyed without a Child.

aretro deven modo & forma put postea mentionat scilt tricesimo die Maii anno Domini 1672. apud Godmersham predict obiit sic ut pfertur inde seisit absq aliquo libero Anglice Child de corpore ipsius Marie exeun tunc aut post mortem predict Marie viven post cujus mortem eadem annuitas sive annual reddit onerat contigit pfat Willo Brodnex hered & assign suis secundum formam & effectum conventionis predict sic ut pferur fact cum eodem Willo

Brodnex

Brodner Idemq; Willus Brodner virtute ejusdem scripti & statut in Parliamento Dñi Henrici viij Regis Angl octavi quarto die Februar anno Regni sui vicesimo septimo de usibus in possessione transferend apud Westm in Com Midd tent edit & prvis fuit seisit de eadem annuitat sive annual reddit onerat in dominico suo ut de feodo Eodemq; Willo Brodner sic inde seisit existen idem Willus Brodner postea & ante pdict tempus quo &c. scilt septimo die Augusti anno Dñi 1673. apud Godmersham pdict per quod scriptum suum indentat tunc & ibidem fact & gerend dat eisdem die & anno ult mentionat quod quidem scriptum ult mentionat sigillo ipsius Willi Brodner signat idem Ricus Sheaf hic in Cur profert p & in consideratione 215 l. bone & legalis monete Anglie eidem Willo Brodner per quendam Nathanielem Wilmot Clicum patrem pdict Danielis Wilmot in manibus tunc & ibm solut concessit eidem Nathanieli Wilmot Clico (patri ipsius Danielis Wilmot) & hered suis pdict annuitat sive annual reddit onerat 14 l. per ann habend tenend percipiend & recipiend & gaudend pdict annuitatem sive annual reddit onerat eidem Nathanieli Wilmot hered & assign suis ad usum ipsius Nathanielis Wilmot hered & assign suor imperpetuum Ad quam quidem concessionem ipsius Willi Brodner pdict Johes Chapman de Eythorn pdict adtunc & ibidem existen tenen libi teñti terraz & teñtoz pdict onerabil cum annuitat sive annual reddit onerat pdict postea & ante pdict tempus quo &c. scilt eodem septimo die Augusti apud Godmersham pdict eidem Nathanieli Wilmot se attornavit & agreavit Virtute cujus quidem concessionis ult mentionat & attornament pdict superinde ut pfertur fact idem Nathaniel Wilmot fuit seisit de annuitat sive annual reddit onerat pdict in dominico suo ut de feodo Et sic inde seisit existen idem Nathaniel Wilmot postea & ante pdict tempus quo &c. scilt primo die Maij anno Dñi 1677. apud Godmersham pdict in Com pdict de tali statu suo inde obiit seisit post cujus quidem Nathanielis Wilmot mortem pdict annuitas sive annual reddit onerat discendebat Nathaniel Wilmot Samuel Wilmot Nehemie Wilmot & pdict Daniel Wilmot ut filiis & coheredibus in coparcenar ejusdem Nathanielis Wilmot patris sui Eo qd terre & tenementa pdict cum pdict annuitat sive annual reddit sic ut pfertur onerat Acetiam omnes annual reddit sive reddit onerat de & extra eisdem terris & teñtis exeun & pvenien sunt & a tempore cujus contrarii memoria hominu non existit fuer de tenura & natura de Gavelkind in pdict Com Kanc & partibil fuer & partiri debuer & debent inter omnes heredes masculos equalit post cujus Nathanielis Wilmot patris mortem iidem Nathaniel Wilmot filius Samuel Wilmot Daniel Wilmot & Nehemia Wilmot seisit fuer de eadem annuitat sive annual reddit onerat pdict in dominicis suis ut de feod in copcenar secundum consuetudinem pdict Et quia quindecim libr & quindecim solid existen quarta parte eidem Danieli contingen de pdict annuitat sive annual reddit onerat p quatuor annis integris & dimid unius anni finit quarto die Junii anno Dñi 1687. necnon pdict tempore quo &c. eidem Danieli Wilmot aretro fuer & adhuc existunt insolut Idem Ricus Sheaf ut ballius ipsius Danielis Wilmot pro eisdem quindecim libris & quindecim solidis existen quarta parte eidem Danieli ut pfertur contingen de pdict annuitat sive annual reddit onerat ei sic ut pfertur aretro existen & ei ut pfertur debit bene cogn captionem averior pdict in pdict loco in quo &c. Et juste &c. p eadem quarta parte de reddit pdict eidem Danieli sic ut pfertur aretro existen ut in terris distriction ipsius Danielis Wilmot in forma pdict onerat & obligat Et hoc idem Ricus Sheaf parat est verificare unde pet Judicium & retorn avior pdict unacum dampnis mis & custagiis suis per ipm in hac parte sustent secundum formam Statuti in hujusmodi casu edit & pvis sibi adjudicari &c.

Sir *W. B.* sells the Rent to *N. W.* in Fee.

The Tenant attorned to this Grant.

N. W. dies seised.

Whereby it discended to his four Sons in Gavelkind, the Lands charged being in Gavelkind Lands.

The Defendant as Bailiff to one of the Sons, distrains for a fourth part of the Rent areare.

Creswel Levinz.

Et

The Plaintiff demands Oyer of the Deed made by M.W. to Sir W. B.

Et prædict' Henr' pet' audit' prædict' scripti per prædict' Mariam Waller in cognitione prædict' superius mentionat' fore fact' & gerent' dat' vicesimo tertio die Januarii anno vicesimo supradict' Et ei legitur in hec verba To all present People to whom this present writing shall come, I *Mary Waller* of *Godmersham* in the County of *Kent* Virgin, send Greeting, Know ye that I *Mary Waller* for the Love, good Will and Affection, which I have and bare towards my well beloved Kinsman Sir *William Brodnex* of *Godmersham* in the County of *Kent* Knight, and for divers other good causes and considerations me hereunto moving, have given, granted, and by these Presents do freely, clearly and absolutely give and grant unto the said Sir *William Brodnex*, his Heirs and Assigns, all that Messuage or Tenement with the Appurtenances, and all Barns, Outhouses, Buildings, Yards, Gardens, Backsides, Orchards and Closes thereto belonging, or thereunto usually letten or enjoyed with their and every of their Appurtenances, and all those two pieces or parcels of Arable and Pasture with the Appurtenances, containing by estimation four Acres, be it more or less, all which Premises are scituate, lying and being in *Swanscombe* in the said County of *Kent*, and now or late in the Tenure or Occupation of one *William Starly*, or of his Assignee or Assigns; And all that my Annuity or yearly Rent-charge of 14 *l.* by the year of good and lawful Mony of *England*, issuing and going, and to be issuing and going out of all and singular the Lands, Tenements and Hereditaments of one *John Chapman* scituate, lying and being within the said Parish of *Godmersham* aforesaid in the said County of *Kent* payable upon the fourth day of *June* and the fourth day of *December* by equal portions yearly for ever, heretofore granted by the said *John Chapman* to my Mother *Moravia Waller*, her Heirs and Assigns by one Indenture bearing date the fourth day of *December* in the thirteenth year of the Reign of our late Sovereign Lord King *Charles the First*, *Anno Domini* 1637. and now lawfully vested in me the said *Mary Waller*, and my Heirs, and all and singular other the Messuages, Lands, Rents, Rent-charges, Annuities, Tenements and Hereditaments whatsoever with their and every of their Appurtenances of me the said *Mary Waller*, situate, lying and being, or issuing or going out of my Messuages, Lands, Tenements or Hereditaments situate, lying or being in *Swanscombe* and *Godmersham* aforesaid or either of them, or elsewhere in the said County of *Kent*, with all Ways, Easements, Commons, Profits, Commodities, Rights, Priviledges, and Advantages thereto, or to any of them belonging or appertaining, or therewith or with any of them held, used, occupied or enjoyed, or reputed as part, parcel or member thereof. And the Reversion and Reversions, Remainder and Remainders thereof together with the said recited Indenture of Grant, bearing date the fourth day of *December*, in the thirteenth year of the Reign of our late Sovereign Lord King *Charles the First*, *Anno Domini*, 1637. To have and to hold, perceive, receive and enjoy all and singular the Messuages, Lands, Rents, Tenements, Hereditaments, and all and singular other the Premises whatsoever, and every part and parcel thereof with their and every of their Appurtenances, to him the said Sir *William Brodnex*, his Heirs, Executors, Administrators and Assigns for ever, from and immediately after the time of my decease, if I die without any Child of my Body lawfully begotten, and living after my decease; And I further hereby give and grant unto the said Sir *William Brodnex*, his Heirs and Assigns for ever, all and singular my Messuages, Lands, Tenements, Rents, Annuities, Rent-charges, Hereditaments, Bills, Bonds, Debts, Goods and Chattels whatsoever and wheresoever he paying within twelve Months after his knowledge of my decease without Issue the Sum of 10 *l.* of lawful Mony of *England* unto my loving Cosins *Thomas Papillon* of *London*, Merchant, and his Wife *Jane*, to be divided between them to buy them some remembrance of me, and paying to my loving Cosins *Thomas Turner* and his Wife *Elizabeth* at the time aforesaid, each one pound or twenty shillings to be put into a Gold Ring in remembrance of me. In witness whereof I have hereunto set my Hand and Seal this 23d day of *January*, in the 20th

Quest. was, if these words shall amount to a Covenant to stand seised, or whether any use be raised by this Deed there not being any Attornment.

year

year of our Sovereign Lord *Charles the Second*, by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c. Anno Domini*, 1668. *Mary Waller*. Quibus lectis & auditis idem Henr dic qd pdict cognitio pdict Ricd Sheaf ut ballius pfat Danielis Wilmot minus sufficien in lege existit ad ipsum Ricum captionem averior pdict in pdict loco in quo &c. justam cognoscere manutenend quoq ipse ad cognitionem ill modo & forma pdict fact & plicat necesse non habet nec per legem terre tenetur respondere Et hoc pat est verificare unde pro defectu sufficien cognitionis in hac parte idem Henr pet Judicium & dampna sua occasione captionis & injuste detentionis averior pdict sibi adjudicari &c.

Demurrer to the Conusance

Hen. Selby.

Et pdict Ricus ex quo ipse sufficien materiam in lege in cognitione sua pdict ad ipsum Ricum captionem averior pdict ut ballivus pdict Danielis Wilmot juste recognoscend superius allegavit quam ipse parat est verificare quam quidem materiam pdict Henr non dedic nec ad eam aliqualit respond sed verificationem ill admittere omnino recusat pet Judicium & retorn averior pdict unacum dampnis suis sibi adjudicari &c. Et quia Justic hic se advisare volunt de & super pmissis priusquam Judicium inde reddant dies dat est partibus pdict hic usq a die Scti Michis in tres septimanas de audiendo inde Judicio suo Eo qd iidem Justic hic inde nondum &c.

Joinder in Demurrer.

Judicium adjornatur.

Scire Facias.

Hill. 34 & 35 Car. II. Rot. 1572.

S. Cooke *versus* E. Cooke & al'

Scire Facias.

Norwic' ss. Alias prout patet Termino Sci Michaelis ult' preterit Rot. 835. continet sic Norwic ss. Prec' fuit Vic' cum Samuel Cooke nup in Cur' Dni Regis hic scil't Termino Sce Trinitatis anno Regni Dni Regis nunc

Judgment in Ejectment.

tricesimo tertio coram Francisco North Milite & Sociis suis tunc Justic' ipsius Dni Regis de Banco hic scil't apud Westm p cons ejusdem Cur' recuperasset tam termin suum de uno Mesuagio uno Stabulo & una roda terre cum ptin infra Pcinct Ecclesie Sce & individue Trinitatis Civitatis Norwici ex fundatione Edri sexti in Norwico pdict versus Edrum Cooke nuper de Norwico Worstedweaver que Ricus Johnson decimo die Aprilis anno Regni dicti Dni Regis nunc tricesimo tertio dimisit eidem Samuel' hend & occupand sibi & assign suis ab eodem decimo die Aprilis anno tricesimo tertio supradicto usq; finem & termin quinq; annor extunc px' sequen & plenar complend & finiend qui nondum pteriit Et unde pdict Edrus eundem Samuelem a possessione sua inde expulit & amovit & ipsu Samuelem a firma sua pdict ejecit quam decem & octo libras que eidem Samuel' in eadem Cur' adjudicat fuer' p dampnis suis que huit occone pmiss unde convict est put p Recordum & pcess inde in eadem Cur' hic residen liquet manifeste executio tamen Judicii pdict adhuc restat faciend ac pdict Edrus mortuus est ac quidam Isaacus Motham gen'osus in tenementa pdict cum ptin modo ingressus est Et illa tenet contra formam recuperationis pdict put ex insinuatione ipsius Samuel' acceperat Rex Et quia &c. qd p pbos &c. Scire fac' Margarete Cooke vid nuper uxor' pdict Edri & Philippe Cooke Spinster executricib; testamenti pdict Edri ac pfat Isaaco Motham qui modo tenementa pdict cum ptin tenet qd essent hic ad hunc diem scil't a die Sci Martini in quindecim dies ostens seperatim si quid &c. videl't pdict Executrices quare pdict Samuel executionem versus eas de denar' pdict ac pdict Isaacus quare pdict Samuel executionem versus eum de termino pdict adhuc futur' here non debeat juxta formam Recuperationis pdict si &c. Et modo hic ad hunc diem ven tam pdict Samuel p Thomam Baleston Attorn suum quam pdict Margareta & Philippa ac pdict Isaacus p Johem Westthorpe Attorn suum Et super hoc idem Samuel pet executionem versus pfat Margaretam & Philippam de denar' pdict ac versus pfat Isaacum de termino pdict adhuc futur' in forma pdict sibi adjudicari &c.

Scire Facias against the Executors of the Defendant, & the Occupier of the Lands, to have Execution upon the Judgment for Damages and the Possession.

Imparlance.

Et pdict Margareta Philippa & Isaacus p Attorn suum pdict pet licentiam inde interloquendi hic usq; in Octabis Sci Hillarii & hent &c. idem dies dat est pfat Samuel' hic &c. Ad quem diem hic ven tam pdict Samuel' quam pdict

Pdict Margareta Philippa & Isaacus p Attorn suum Pdict Et Pdict Margareta Philippa & Isaacus dic qd Pdict bre de Scire Fac in forma Pdict impetrat minꝰ sufficien in lege exist' ad Pdict Samuelem executionem suam Pdict versus ipsas Margaretam & Philippam de denar' Pdict & versus ipsum Isaacum de termino Pdict hend manutenend ad quod iidem Margareta Philippa & Isaacus necesse non hent nec p legem terre tenent respondere Et hoc parat sunt verificare unde ex quo Pdict bre de Scire Fac minꝰ rite impetrat & insufficiens in lege existit iidem Margareta Philippa & Isaacus pet Judiciu & qd Pdict Samuel ab executione sua Pdict versus easdem Margaretem & Philippam de denar' Pdict & versus eundem Isaacum de termino Pdict hend Pcludat &c.

Demur general to the *Scire Facias.*

Et Pdict Samuel dic qd Pdict bre de Scire Fac in forma Pdict impetrat bonu & sufficien in lege existit ad executionem suam Pdict versus Pdict Margaretam & Philippam de denariis Pdict & versus Pdict Isaacum de termino Pdict hend & manutenend Et p eo qd Pdict Margareta Philippa & Isaacus ad bre Pdict hucusq; non respond nec ill aliqualit dedic idem Samuel ut prius pet executionem versus Pdict Margaretam & Philippam de denariis Pdict ac versus Pfat Isaacum de termino Pdict adhuc futur' in forma Pdict sibi adjudicari &c. Et quia Justic hic se advisare volunt de & super Pmissis priusq Judiciu inde reddant dies dat est partibꝰ Pdict hicusq; a die Pasche in quindecim dies de Audiendo inde Judicio suo eo qd iidem Justic hic inde nondum &c.

Joinder in Demurrer.

Judgment pro Quer' per totam Curiam.

Trin. 35 Car. II. C.B. Rot. 1572. *Robinson.*

Cooke *versus* Cooke.

Levinz Part III. Fol. 100.

ALias put patet termino Pasche ult Pterit (Rot.) continet sic Salop ss. Prec fuit Vic cum Edrus Kettilby Gen un Clicor Thome Robinson Arm Capital Prothon Cur Dni Regis de Banco nup in Cur Dni Regis hic scilt termino Sci Michaelis anno Regni sui tricesimo primo coram Franco North Mil & Sociis suis tunc Justic ipsius Dni Regis de Banco hic scilt apud Westm p cons ejusdem Cur recuperasset versus Ricum Haples nuper de le Wire in Com Pdict Gen nonagint & quatuor Libr & decem solid qui eidem Edro in Cur dici Dni Regis adjudicat fuer p dampnis suis que sustinuit occone cujusdam transgr' p Pdict Ricum eidem Edro vi & armis & contra pacem Dni Regis apud Parochial de Meene Savage in Com Pdict fact unde Convict est put p Record & Processum inde in eadem Cur' dici Dni Regis hic residen liquet manifeste executio tamen Judicii Pdict adhuc restat faciend put ex insinuatione Pdict Edri acceperat Rex & quia &c. qd p pbos &c. Scire Fac Pdict Rico qd sit cora Justic dici Dni Regis hic scilt apud Westm Pdict in Crastino Ascentionis Dni ostens siquid &c. quare Pdict Edrus executionem versus eum de dampn Pdict here non deberet juxta formam Recuperatin Pdict si &c.

To have Execution. *Scire Facias* on a Judgment for Damages in Trespass.

Retorn of the *Scire Facias.*

Et modo hic ad hunc diem scilt ad pdict Crastin Ascentionis Dni ven tam pdict Edrus in ppr psona sua qm pd Ricus premunit &c. p Johem Oliver Attorn suu Et Vic videlt Edrus Kyngston Arm modo mand qd ipse virtute bris pdict sibi direct Scire Fac psat Rico essend hic ad hunc diem p Edrum Stapley & Thomam Lever pbos &c. Et super hoc idem Edrus pet execution Slus psat Ricum de dampn pdict sibi adjudicari &c.

Et pdict Ricus pet Licenciam inde interloquendi hicusq; in Crastino Sce Trinitatis Et het &c. idem dies dat est psat Rico hic &c. Ad quem diem hic ven tam pdict Edrus in ppr psona sua qm pdict Ricus p Attorn suu pdict Et sup hoc pdict Ricus dic qd pdict Edrus executionem Slus eum de dampn pdict here non debet quia dic qd post Judiciu pdict in forma pdict obtent scilt tricesimo die Novembris anno Dni 1679. apud Wire in Paroch de Neene Savage in Com pdict pdict Edrus pcuravit diglas denar summ as parcell dampnor pdict fore capt in executione virtute cujusdam bris dicte Dni Regis de Fieri Fac p ipsum Edrum sup Judicio pdict psecut p quendm Lingen Topp Arm tunc Vic Com pdict Et postea scilt primo die Decembris anno Dni 1679. supdicto apud Wyre pdict agreat fuit int ipsu Ricum & pdict Edrum qd si quidam Thomas Adams & Thomas Monox susciperent sup se p eodem Rico ad solvend cuidam Willo Peirce Gen tunc Subvic pdict Lingen Topp Vic Com pdict ad quendam diem Vocat Newmarket-day Undecimo die Januarii px sequen tenend decem libras tunc idem Edrus acceptare vellet de eisdem decem libris in plenam Satisfactionem resid dampnor pdict Et idem Ricus ulterius dic qd pd Thomas Adams & Thomas Monox postea scilt primo die Decembris anno Dni 1679. supdicto apud Wyre pd susceperunt se & uterq; eor se suscepit p eodem Rico ad solvend psat Subvic ad diem pd apud Willam Salop pd pd undecimo die Januarii tunc px sequen pd decem libras & iidem Thomas Adams & Thomas Monox ad diem pdict apud Willam pd pd undecimo die Januarii anno Dni 1679. supdicto tempr solvunt psat Subvic pd decem libras scdm susceptionem suam pd Et hoc parat est verificare unde pet Judiciu si pd Edrus execution Slus eum de dampn pd here debeat &c.

Plea to the *Scire Facias.*

That Parcel of the Damages were taken in Execution by *Fieri Facias.*

That it was agreed if *T. A.* & *T.M.* would undertake to pay to the Sheriff 10 *l.* such a day, then the Plt. would accept of the same in full satisfaction of the residue.

That they did undertake, & did pay it at the day.

Demurrer.

Et pd Edrus dic qd plitum pd Ric supius in barram plitat materiaq; in eodem content minus sufficien in lege existit ad ipsu Edrum ab Executione sua pd Slus ipsu Ricum hend pcludend Quodq; ipse ad plitum illud modo & forma pd plitat necesse non het nec p legem terre tenet aliquo modo respondere Et hoc parat est verificare unde p defectu sufficien respons ipsius Ric in hac parte idem Edrus ut prius pet execution de dampn pd occasione transgr illius sibi adjudicari &c.

Joinder in Demurrer.

Et pd Ricus ex quo ipse sufficien materiam in lege in plito suo pd ad ipsu Edrum ab executione sua pd Slus ipsu Ricum hend pcludend superius allegavit quam ipse parat est verificare quam quidem materiam pd Edrus non dedic nec ad eam aliqualit respondit set verificationem illam admitte omnino recusat ut prius pet Judiciu Et qd pd Edrus ab executione sua pd Slus eum de dampn pd hend pcludat &c. Et quia Justic hic se advisare volunt &c.

Hill.

Hill. 35 & 36 Car. II. Rot. 1189.

Cooke.

Britton *versus* Bathurst.

Levinz Part III. fol. 113.

London ss. PRec' fuit Vic' cum nuper Dudley North Mil' & Peter Rich Ar' nuper Vic' London pdict p bre Dni Regis precept fuit qd de Bonis & Catallis que fuer' Marie Satchwell nuper de London vid Administracis bonoꝝ & catalloꝝ que fuer' Henr' Satchwell nuper viri sui qui obiit intestat in manib; Benjamini Bathurst Mil' Admi bonoꝝ & catalloꝝ que fuer' pdict Marie tempore mortis sue cum testamento ipsius Marie annexat Administrand existen in balliva sua fieri fac' tam Mille quadringent & quatuordecim libr' undecim solid & quinq; denar' parcell' cujusdam debi duaꝝ Mille septingent & duaꝝ libraꝝ octo solid & trium denar' qd Robtus Britton in Cur' dicti Dni Regis coram Justic' ipsius Dni Regis hic recuperavit versus pdict Mariam in vita sua quam Centum solid qui eidem Robto in ead Cur' adjudicat fuer' p dampn suis que huit occone detention debi illius si pdict Benjamin; tant bona & catalla que fuer' pfat Marie tempore mortis sue in manib; suis administrand heat Et denar' ill' heret coram Justic' dicti Dni Regis hic ad hunc diem scilt a die Sce Trin in tres septimanas ult pterit ad reddend pfat Robto Britton p pdict parcell' debi pdict & dampnis pdict unde pdict Maria convict fuit Et unde cons fuit in eadem Cur' qd pdict Robtus heret execution versus pfat Benjamin de pdict 1414 l. 11 s. 5 d. & de pdict Centum solid sic ut pfert recuperat levand Et unde idem Vic' vidert Dudley North Mil' & Petrus Rich Arm nuper Vic' London pdict mand Justic' dicti Dni Regis hic ad pfat termin qd pdict Benjamin; nulla hent bona seu catalla que fuer' pdict M. S. Admi pdict bonoꝝ & catalloꝝ que fuer' pdict H. S. defunct tempore mortis sue in manib; suis administrand in balliva sua unde pdict 1414 l. 11 s. 5 d. parcell' pdict debi 1702 l. 8 s. 3 d. & pdict Centum solid p dampnis aut aliquam inde parcell' fieri face potuer' put idem Dns Rex p bre pdict eisdem Dudley North Mil' & Petro Rich Arm nuper Vic' London pdict pcept fuit Et quia retorn pdict in retardationem executionis recuperationis pdict fieri concipiebat ac in pdict Cur' dicti Dni Regis coram Justic' hic ex parte pdict Robti testat existebat qd pdict Benjamin; diversa bona & catalla que fuer' pfat Marie tempore mortis sue in manib; ipsius Benjamini ad valenc' pdict 1414 l. 11 s. 5 d. parcell' debi pdict ac pdict Centum solid de dampn pdict vendidit & elongavit & denar' inde pcept ad usum suum ppr' convertit & disposuit ea intentione qd executio inde non fieret dictus Dns Rex volens ea que in eadem Cur' dicti Dni Regis hic rite acta & adjudicat sunt arte subdola vel ingenio irrita fieri pcepit Petro Daniel Arm & Samueli Dashwood Arm modo Vic' London pdict qd de bonis & catallis que fuer' pfat Marie tempore mortis sue in manib; ipsius Benjamini administrand existen in balliva sua fieri pdict 1414 l. 11 s. 5 d. parcell' debi pdict & pdict Centum solid de dampnis pdict si inde levari possint Et denar' ill' levat herent coram Justic' dicti Dni Regis hic ad hunc diem scilt in Octab Sci Martini ult pterit ad reddend pfat Robto de pdict parcella debi pdict & de dampnis pdict Et si pdict parcella debi pdict & dampna pdict in forma pdict levari non possint tunc si constare poterit eisdem Petro Daniel Arm & Samueli Dashwood Arm modo Vic' London pdict p Inquisitionem sup sacrm proboꝝ & legalium homin de balliva sua in hac pte capiend vel alio modo quo melius inde certiorari possent qd pdict Benjamin; bona

Stat. 30 *Car.* 2. *Offic. of Execut.* 233, 209. 4 *Rep.* 59. *b.* 5 *Rep.* 28. *b.* 3 *Cro.* 793. *Dr. & Stud. l.* 2. *c.* 11.

Fieri Fac' to levy 1414 *l.* 11 *s.* 5 *d.* of the Goods of the Inteſtate in the hands of Sir *B. B.* which *R. B.* had recovered *in Curia, &c.* againſt the Inteſtate.

Sheriff returns *nulla bona.*

Enquiry of Waſte. A *Devaſtavit.*

bona & catalla que fuer' p'dict' Marie tempore mortis sue in manib' ipsius B. administrand' existend' ad valenc' p'dict' 1414 l. 11 s. 5 d. parcell' debi p'dict' ac p'dict' Centum solid' de dampn' p'dict' aut alicujus inde parcell' vendidit elongavit vel in usum suum ppr' converti tunc p' pbos & legales hoies de balliva sua Scire Fac' p'fat' Benjamino qd sit coram Justic' dicti Dni Regis hic ad p'fat' termin' ostens' si quid &c. quare p'dict' Robtus executionem habere non deberet eum tam de p'dict' 1414 l. 11 s. 5 d. parcell' debi p'dict' quam de p'dict' Centum solid' de dampnis p'dict' de bonis & catallis ipsius B. ppr' levand' here non deberet si &c. put p' bre p'dict' eisdem Petro Daniel' Arm' & Samuel' Dashwood Arm' modo Vic' London' p'dict' p'cept' fuit &c. Ad quem diem videlt ad p'dict' Octabas Sci Martini iidem Vic' mand' hic qd p'dict' Benjamin' Bathurst nulla huit bona seu catalla que fuer' p'fat' Marie Satchwell tempore mortis sue in manib' suis administrand' in ballivia sua unde debm & dampna p'dict' aut aliquam inde parcell' Fieri fac' potuer' diversa tamen bona & catalla que fuer' p'fat' Marie Satchwell tempore mortis sue ad Valenc' 1292 l. 6 s. 11 d. ad manus p'dict' Benjamini Bathurst devenissent administrand' unde eidem Robto tant' debi & dampn' p'dict' satisfecisse potuisset Que quidem bona & catalla p'dict' Benjamin' postea & ante Adventum bris p'dict' eisdem Petro Daniel Arm' & Samueli Dashwood Arm' modo Vic' London' p'dict' vendidisset devastasset elongasset & in usum suum ppr' convertisset put p' quand' dam Inquisitionem sup sacrm' pbor' & legalis homin' de balliva sua in hac pte coram eisdem Petro Daniel' Arm' & Samueli Dashwood Arm' modo Vic' London' p'dict' capt' & eidem bri annexat' constabat sed p'dict' Benjamin' nichil huit &c. nec fuit invent' &c. Mand' etiam iidem Vic' videlt Petrus Daniel Arm' & Samuel Dashwood Arm' modo Vic' London' p'dict' ad hunc diem scilt ad p'dict' Octabas Sci Martini Justic' dicti Dni Regis hic dictam inquisition' coram eisdem Vic' apud Guilhald' Civitatis London scituat' in Paroch' Sci Lawrencii in veteri Judaismo in Warda de Cheape ejusdem Civitat' decimo sexto die Novembris ult' p'terit' p' Sacrm' Danielis Mann Willi Church Johis Pope Johis Phillips Thome Pounsett Georgii Knight Willi Partridge Gregorii Bishopp Johis Dodd Johis Bell Josephi Crow & Jacobi Malby probor' &c. capt' p' quam compt' existit qd diversa bona & catalla que fuer' Marie Satchwell in dicto bri dicti Dni Regis nominat' tempore mortis sue ad valenc' p'dict' 1202 l. 6 s. 11 d. parcell' p'dict' 1414 l. 11 s. 5 d. & Centum solid' p' debo & dampnis in p'dict' bri dicti Dni Regis mentionat' post mortem ipsius Marie ad manus p'dict' Benjamini Bathurst Mil' administrand' devenissent que quidem bona & catalla p'dict' B. B. postea & ante diem captionis Inquisitionis illius vendidisset devastasset & in usum suum ppr' convertisset

Devastavit found.

Scire Facias.

Ideo p'cept' fuit eisdem Vic' videlt P. D. Arm' & S. D. Arm' modo Vic' London' p'dict' sicut alias eisdem Vic' p'rec' fuit qd p' pbos &c. Scir' fac' p'fat' Benjamino qd sit coram Justic' dicti Dni Regis hic ad hunc diem scilt in Octab' Sci Hillarii tunc px' sequen' ostens' in forma p'dict' &c. quare p'dict' Robtus execution' habere eum de p'dict' 1292 l. 16 s. 11 d. parcell' p'dict' debi 1414 l. 11 s. 5 d. & p'dict' Centum solid' de dampn' p'dict' de bonis & catallis ipsius B. ppr' levand' here non deberet si &c. Et modo hic ad hunc diem scilt ad p'dict' Octab' Sci Hillar' ven' tam p'dict' Robtus Britton p' Carolum Perrott Attorn' suum quam p'dict' Benjamin' p' Radum Grainge Attorn' suum Et iidem Vic' videlt P. D. Arm' & S. D. Arm' modo mand' Justic' dicti Dni Regis hic qd p'dict' Benjaminus Bathurst Mil' nichil huit &c. nec fuit invent' &c. Et sup hoc p'dict' Robtus Britton pet' executionem versus p'fat' Benjamin' de p'dict' 1292 l. 16 s. 11 d. parcell' p'dict' debi p'dict' 1414 l. 11 s. 5 d. & p'dict' Centum solidor' de dampn' p'dict' de Bonis & Catallis ipsius B. ppr' levand' sibi adjudicand' &c.

Defendant pleads fully administred.

Et p'dict' Benjamin' dic' qd p'dict' Robtus Britton execution' habere eum de p'dict' 1292 l. 16 s. 11 d. parcell' p'dict' debi p'dict' 1414 l. 11 s. 5 d. & p'dict' Centum solid' de dampn' p'dict' de bonis & catallis ipsius Benjamini ppr' levand'

levand here non debet quia dicit qd ipse plene administravit oia bona & catalla que fuer pdict Mariæ tempore mortis sue que unquam ad manus ipsius B. devenissent administrand Absq; hoc qd idem B. aliqua bona seu catalla que fuer pdict Mariæ tempore mortis sue devastavit modo & forma prout per Inquisitionem pdict compert existit. Et hoc paratus est verificare unde petit Judicium si pdict Robertus Britton execucion versus eum de pdict 1292 l. 16 s. 11 d. parcel debi & dampn pdict de bonis & catallis ipsius B. propr levand habere debeat &c.

And traverseth the Devastavit.

Et pdict Robertus dic qd ipse per aliqua in eodem plito pdict Benjamin pallegat ab executione sua pdict Ilus ipsius de pdict 1292 l. 16 s. 11 d. parcel pdict debi 1414 l. 11 s. 5 d. & pdict centum solid de dampn pdict de bonis & catallis ipsius B. propr levand habend precludi non debet quia dic qd ipse idem B. pdict 1292 l. 16 s. 11 d. pdict parcel pdict debi & dampnor pdict de bonis & catallis que fuer pdict Mariæ tempore mortis sue & que ad manus ipsius B. propr devener administrand devastavit modo & forma prout p Inquisitionem pdict superius compert est scilt in parochia Sci Laurentii in veteri Judaismo in warda de Cheap London pdict Et hoc pet qd inquiratur per patriam Et pdict B. simil Ideo precept est Vic qd Venire Fac hic in Octab Pur beatæ Mariæ duodecim &c. de vicineto de parochia Sci Laurentii in veteri Judaismo in warda de Cheap London pdict p quos &c. Et qui omnia &c. ad recogn &c. Quia tam &c. Postea continuat inde pces inter partes pdict de plito pdict p Jur posit inter eos in respectu hucusq; ad hunc diem scilt a die Sce Trinitatis in quindecim dies tunc prox. sequen nisi Thomas Jones Mil Capital Justic Dni Regis de Banco assign p formam Statuti &c. die Jovis quinto die Junii prox. pterit apud Guildhald London pdict prius venisset Et modo hic ad hunc diem ven tam pdict Robertus quam pdict Benjaminus p Attorn suos pdict Et ptat Thomas Jones coram quo mis hic Recordum suum in hec verba Postea die & loco infracontent coram Thoma Jones Mil Capital Justic Dni Regis de Banco associat sibi Adamo Baynes Gen p formam Statuti &c. ven tam infranominat Robtus Britton quam infrascript Benjaminus Bathurst p Attornatos suos infracontent Et Jur jure unde infra fit mentio exact quidam eorum videlt Phus Perry Phus Stubs Stephus Coleman Henr Creamer & Stephanus Gittings ven & in jurand ill jurat existunt Et quia resid Jur ejusdem jure non comparuer Ideo at de circumstantibus p Vic London infrascript ad hoc elect ad requisition pcod Robti Britton ac p mandat Capital Justic pdict de novo apponuntur Quor nomina panello infrascript affilantur secundum formam Statuti in hujusmodi casu nuper edit & provis Et Jur sic de novo apponit Ricus Chaplin Ricus Dowley Johes Pope Thomas Pounset Thomas Horsnel Georgius Knight & Georgius Hill exact simil ven qui ad veritat de infracontent simulcum at Jur pdict prius impannellat & jurat dicend electi triat & jurat fuer sup quo certis de causis tam Capital pdict quam partes pdict moven ptat Stephus Gittings un Jur jure infrascript a pannello pdict retrahitur Et resid Jur jure ill de aliquo verdicto suo de & super pmiss infrascript reddend penitus exonerantur &c. Io Jura pdict ulterius penitus in respect hic usq; a die Sce Trinitatis in tres septimanas p defect Jur &c. Io Vic habeant corpora &c. Et appon decem tales &c. Idem dies dat est partibus pdict hic &c. Ad quem diem hic ven tam pdict Robtus quam pdict Benjaminus per Attornatos suos pdict Et Vic videlt Petrus Daniel Mil & Samuel Dashwood Armig modo mand quoad distringend Johes Hall & ceteros Jur in br dicti Dni Regis sibi directi nominat breve illud adeo tarde sibi delibat fuit qd pter brevitatem temporis nullam inde executionem fieri facere potuit set quoad apponend decem tales unde eodem brevi fiebat mentio iidem Vic modo mand qd executio inde patiebat in quadm schedula eidem br annex' In qua quidem schedula continetur panellum de nominibus decem Jur quor nullus &c. Io Jur pdict ulterius

The Plaintiff replies that the Defendant hath wasted.

Issue.

ulterius ponitur in respect hucusq; a die Scti Michis in tres septimanas nisi Thomas Jones Mil Capital Justic ꝑdict assign per formam Statuti &c. die Veneris vicesimo die Junii apud Guildhald London ꝑdict prius ven p defect Jur &c. Jd Vic distringat Jur ꝑdict per omnes terras &c. Et qd de exitibus &c. Ita qd sint hic nisi &c. ad faciend Jur ꝑdict &c. Et modo hic ad hunc diem ꝑdict Robtus Britton quam ꝑdict Benjaminus Bathurst p Attornatos suos ꝑdict Et ꝑfat Capital Justic coram quo &c. mis hic Recordum suum in hec verba Postea die & loco infracontent coram Thoma Jones Mil Capital Justic Dni Regis de Banco associat sibi Adamo Baynes Gen p formam Statuti &c. ven tam infranominat Robtus Britton quam infrascript Benjaminus Bathurst p Attornatos suos infracontent Et Jur jure unde infra sit mentio exact quidam eor videlt Phus Perry Phus Stubs Henricus Creamer Ricus Chaplin Ricus Dowley Willus Hayes Johes Mallory Anthus Spencer Rogus Duncombe & Jacobus Richardson ven & in juram ill jurat existunt Et quia resid Jur ejusdem jure non comparuer Jd al de circumstantibus p Vic London infrascript ad hoc electi ad requisition ꝑdict Roberti ac p mandat Capital Justic ꝑdict de novo apponuntur quor nomina panello infrascript affilantur secundum formam Statuti in hujusmodi casu inde nuper edit & pvis Et Jur sic de novo appost videlt Michus Baugh & Willus Sarson exact similiter ven qui ad veritatem de infracontent simulcum al Jur ꝑdict prius impannellat & jurat dicend elect triat & jurat dic sup sacram suum qd dicta bona & catalla que fuer infranominat Marie Satchwell tempore mortis sue ad valenc infrascript 1292 l. 16 s. 11 d. post mortem ipsius Marie ad manus ꝑdict Benjamini Bathurst Mil administrand devenissent Quodq; postea & ante diem caption Inquisition infrascript ꝑdictus Benjaminus bona & catalla ad valenc 311 l. 5 s. 8 d. parcel bonor & catallorum ult ꝑmentionat devastavit modo & forma put ꝑdcus Robtus interius replicando allegavit Et Jur ꝑdict super sacram suum ꝑdict ulterius dic qd ꝑdict M.S. in vita sua & tempore mortis sue indebitat fuit ꝑfat Benjamino Bathurst in quingent libr & decem solid p dictis bonis & mercimoniis ꝑfat Marie p ꝑdict Benjamin preantea vendit & deliberat Et Jur ꝑdict super sacram suum ꝑdict ulterius dic qd ꝑdict Maria Satchwell in vita sua & tempore mortis sue indebitat fuit dictis personis in 481 l. 1 s. 3 d. p dictis bonis & mercimoniis de eis empt habit & recept Quodq; post mortem ꝑdict Marie necnon post commission administration bonor & catallor que fuer ꝑdict Marie tempore mortis sue eidem Benjamino debo modo fact ꝑdict Robtus Britton modo quer ꝑsecut fuit fuit extra Cur dni Dni Regis de Banco apud Westm quoddm breve dni Dni Regis de Scire Fac Vic London direct per quod quidem breve recitan qd cum ꝑdict Robtus Britton nuper in Cur dni Dni Regis nunc hic similiter scilt Termino Scti Michis anno Regni sui tricesimo coram Franco North Mil & sociis suis tunc Justic dci Dni Regis de Banco apud Westm p consuetudinem ejusdem Cur recuperasset versus ꝑfat M. S. ut Administratricem bonor & catallor que fuer infranominat Henr Satchwell nuper viri sui qui obiit intestat tam quoddm debm 2702 s. 8 s. 3 d. quam centum solid qui eidem Robto in eadem Cur dci Dni Regis adjudicat fuer p dampnis suis que huit occone detencion debiti illius de bonis & catallis que fuer ꝑdict Henr tempore mortis sue in manibus ꝑdict Marie administrand si tantum in manibus suis administrand huisset Et si tant inde in manibus suis administrand non huisset tunc dampna ꝑdict de bonis & catallis ipsius Marie propr levand executio tamen Judicii ꝑdict adtunc restabat faciend allegandoq; qd postea diversa bona & catalla que fuer Henr Satchwel tempore mortis sue ad valenc debiti ꝑdict ad manus & possession ꝑfat Marie devenissent administrand que quidm bona & catalla eadem Maria in usum suum proprium convertisset & disposuisset Posteaq; obiit ꝑcept fuit Vic London ꝑdict qd p ꝑbos &c. Scire Fac ꝑfat Benjamino Bathurst Mil Administr bonor & catallor que fuer ꝑdict Marie cum testamento ipsius Marie annex qd esset in ꝑdict Cur dci Dni Regis

ad

Tales.

Special Verdict.

That divers Goods of the Intestate came to the Defendants hands. And that the Defendant *devastavit* parcel.

That the Intestate was indebted to the Defendant for Goods sold. And other persons.

ad certum diem jam pterit' ostens' si quid &c. quare pdict' Robtus execution versus eum de debito & dampnis pdict' de bonis & catallis que fuer' pfat' Marie in manibus suis administrand' habere non deberet juxta formam recuperation pdict' si &c. Ad quem diem in eadem Cur' ven tam pdict' Robtus Britton quam pdict' Benjaminus p Attornatos suos supradict' Et super hoc pdict' Robtus petiit execution versus pfat' Benjamin de debito & dampnis pdict' de bonis & catallis que fuer' pfat' Marie tempore mortis sue in manibus ipsius B. administrand' existen sibi adjudicari &c. Et pdict' B. quoad debitum pdict' dixit qd pdict' Robtus execution' versus eum inde hēre non debuit quia dixit qd Maria in vita sua plene administravit omnia bona & catalla que fuer' pdict' Henr' Satchwell tempore mortis sue que ad manus & possession pdict' Marie devenissent administrand' Absq; hoc qd eadem Maria aliqua bona seu catalla que fuer' pdict' H. S. tempore mortis sue administrand' que ad manus ipsius Marie devenissent administrand' ad valenc' debi pdict' seu alicujus inde parcel' devastasset ad usum suum pprium convertisset seu disposuisset put pdict' breve de Scire Fac' supposuisset Et hoc dixit qd parat' fuit verificare unde pet' Judicium si pdcus Robtus execution versus eum de debito pdict' habere debuit &c. Et quoad dampna pdict' idem B. dixit qd pdcus Robertus execution inde versus eum habere non debuit quia dixit qd pdict' Maria in vita sua solvisset & satisfecisset pfat' Robto pdict' centum solid' p dampnis pdict' Et hoc silr dixit qd parat' fuit verificare unde pet' Judicium si pdict' Robtus execution inde versus eum habere debuit &c. Et pdcus Robertus quoad pdict' plitum pdict' B. p ipsum quoad debitum pdict' plitat' dixit qd ipse p aliqua in eodem plito pallegat' ab executione sua pdict' inde habend' pcludi non debuit quia dixit qd post Judicium pdict' reddit' scilt primo die Maii anno Regni dci Dni Regis nunc tricesimo primo diversa bona & catalla que fuer' H. S. tempore mortis sue ad valenc' debiti pdci ad manus & possession pdict' Marie devenissent administrand' que quidem bona & catalla eadem Maria postea scilt eisdem die & anno devastasset & ad usum suum proprium convertisset & disposuisset Et hoc petiit qd inquiretur p patriam Et pdict' B. similiter Et quoad pdict' plitum pdict' B. quoad dampna pdict' supius plitat' idem Robtus dixit qd ipse p aliqua in eodem plito pallegat' ab executione sua pdict' inde habend' pcludi non debuit quia dixit qd pdict' Maria non solvit seu satisfecit pfat' Robto pdict' centum solid' p dampnis pdict' Et hoc petiit qd inquiretur per patriam Et pdict' B. similiter Ido ad triand' separal' exit' pdict' pcept' fuit Vic' qd Venire fac' ibidem a die Sce Trinitatis in tres septimanas anno Regni dci Domini Regis nunc tricesimo quarto duodecim &c. per quos &c. Et qui nec &c. Ad recogn &c. Quia tam &c. Ad quē postea scilt septimo die Julii anno tricesimo quarto supradicto separal' exit' pdict' per Juratam prim debito modo trial' fuer' Ad quē superinde quoad exit' pdict' quoad devastation pdict' primo mentional' per veredictum Jur' illius compert' fuit qd pdict' M. S. in vita sua post Judicium pdict' reddit' bona & catalla que fuer' pfat' H. S. tempore mortis sue Et que ad manus pdict' Marie devenissent administrand' ad valenc' 1414 l. 11 s. 5 d. debi pdict' parcel' devastasset & ad usum suum proprium convertisset & disposuisset put pdict' Robertus Britton allegasset super quo quidem veredicto judicium interius specificat' versus pfat' B. reddit' fuit put p copiam Recordi veredicti & judicii ill' Jur' pdict' in evidenc' ostens' plenius apparet Et Jur' pdict' super sacrm suum pdict' ulterius dic' qd post mortem pdict' Marie & ante veredictum pdict' in forma pdict' reddit' necnon ante impetracionem pdict' brevis de Scire Fac' p Jur' pdict' superius in forma pdict' compert' idem B. de pdict' bonis & catallis que fuer' pdict' Marie tempore mortis sue propr' que ad manus suas devener' administrand' ad valenc' pdict' debiti quinquaginta librar' & decem solid' per pfat' Mariam tempore mortis sue eidem B. debit' in manus suas retinuit in satisfactione separal' debiti sui pdict' & resid' bonorum & catallorum que fuer' pdict' Marie tempore mortis sue ad valenc' pdict' 481 l. 1 s. 3 d. personis pdict' in satisfactione separl' debit' pdict' p pfat' Mariam in vita sua & tempore

That the Defendant retained.

mortis sue ut pfertur debit & insolut dedit & deliberavit sed utrum super tota materia p Jur pdict in forma pdicta compert pdict B. devastavit bona & catalla illa jur pdict penitus ignorant Et inde pet advisament Justic dict Dni Regis apud Westm Et si super tota materia pdict p Jur pdict in forma pdicta compt videbitur Justic dict Dni Regis apud Westm qd pred B. devastavit bona & catalla pred per ipsum B. ut pfertur retent & pred alia bona & catalla personis pdictis in satisfactione separat debitor suor ut pfertur dat & deliberat tunc iidem Jur super sacram suum pdict ulterius dic qd pred B. devastavit & ad usum suum propr convertit & disposuit bona & catalla ill modo & forma put pdictus Robertus interius scilt replicando allegavit sed si super tota materia pred per Jur pred in forma pdicta compert videbitur Justic dict Dni Regis pred qd pdict B. non devastavit ad usum suum propr convertit nec disposuit bona & catalla illa tunc iidem Jur super sacram suum pred ulterius dic qd pred B. non devastavit bona & catalla ill put pred B. interius p se plitando allegavit Et quia Justic hic se advisare volunt &c.

The doubt of the Jury upon the Devastavit or not.

Mary S. as Administratix of *Henry* her Husband, confesseth a Judgment to the Plaintiff of 2700 *l.* on a Simple Contract, and dies intestate, and Administration of her Goods is committed to the Defendant, pays himself and other Debts on simple Contract before any *Scire Fac.* sued upon that Judgment; after which a *Scire Facias* is sued against him, and upon allegation of Wast done by *Mary* of her Husband's Goods, and tryed and found Judgment is given against him for 1400 *l.* of the proper Goods of *Mary*; then another *Scire Fac.* is brought against him, and upon allegation that he hath wasted *Mary's* Goods, its tried and found he hath wasted 300 l. of her Goods, and for that he must have Judgment: But for the other Mony paid to himself and others upon Contract before the *Scire Fac.* sued out, whether that be Waste is the doubt? And Judgment against the Plaintiff, that the payment before Notice was good, and no *Devastavit*.

Pasch. 1 Jac. II. Rot. 915.

Yates *versus* Plaxton.

Levinz Part III. Fol. 235.

Midd. ss. ALias prout patet Termino Scti Trinitatis ult pterit Rot 1951. continetur sic Precept fuit Vic cum Johes Plaxton nuper de Furnivals Inn London Gen & Henr Clerk nuper de Parochia Scti Clementis Dacor in Com pdict Gen nuper in Cur Dni Regis hic scilt Termino Scti Michaelis anno Regni dict Dni Regis nunc tricesimo tertio coram Francisco North Mil & sociis suis tunc Justic dict Dni Regis de Banco hic scilicet apud Westm in pdict Com Midd manucepissent & uterq eor manucepisset p Thoma Hall nuper de Thorn in Com Ebor naut in summa trescentarum librarum sub hac tamen conditione qd si contingeret pfat Thomam Hall in quodam plito transgr super Casum Ad dampnum centum & quinquaginta librar versus ipsm p quendam Johem Yates in eadem Cur dict Dni Regis de Banco hic psecut aliquo legitimo modo convinci & Judicium p eodem Johe Yates in plito pdict dictus pfat Thomam Hall in eadem Curia reddi qd tunc idm Thomas Hall omnia dampna per eundem

Scire Facias against the Bail of a Judgment in the County of the City of York.

eundem Johem Yates ꝟsus pfat Thomam Hall in eadem Curia dcē Dñi Regis de Banco hic in plito pdict recuperand vel adjudicand satisfaceret vel qđ idem Thomas Hall corpus suum in execucione hujusmodi judicii in eadm Curia hic redderet quam quidm summam 300 l. pdict Johes Plaxton & Henr Clark recognover & uterq eoꝝ p se recognovit de terris & catallis suis fieri & ad opus & usum pred Johis Yates levari si contingeret pred Thomam Hall contra manucaptionem pred in aliquo modo defalt facere ac licet pdictus Johes Yates postea scilt Termino Scī Hillarii anno Regni dicti Domini Regis nunc tricesimo quinto & tricesimo sexto coram Thoma Jones Mil & sociis suis Justic dicti Dñi Regis de Banco hic scilt apud Westm pred p consuetudinem ejusdem Curie recuperasset ꝟsus pfat Thomam Hall sexaginta & quinq libras & decem solidos de pred centum & quinquaginta libris qui eidem Johi in eadem Curia hic adjudicat fuer p dampn suis que sustin occasione pdict transgr super casum unde convict est put per Recard & process inde in eadem Curia coram Justic ejusdem Curie hic scilt apud Westm pdict residen liquet manifeste pdictus tamen Thomas Hall corpus suum in execucione judicij pdcī in eadem Curia dcī Dni Regis de Banco hic non reddidit nec pfat Johi Yates de dampnis pdictis juxta formam Recognitionis pdcī satisfecissent put ex insinuatione pred Johis Yates accepat dictus Dñus Rex Et quia &c. qđ p probos &c. Scire faceret pfat Johi Plaxton & Henr Clark qđ essent hic in Crastino Scē Trinitatis ult pterit ostens si quid &c. quare pdict trescent libr p ipsos in forma pdicta separalit recogn de terris & catallis suis fieri & pfat Johai Yates reddi non debeant juxta formam recuperationis pdcī si &c. Ad quem quidem Crastinum Scē Trinitatis ven pdictus Johes Yates p Willum Bagnal Attornatum suum & optulit se quarto die ꝟsus pfat Johem Plaxton & Henr Clark de pred plito Et ipsi solempniter exact non ven Et Vic vidzt Petrus Daniel Mil & Samuel Dashwood Armiger tunc mand hic qđ nichil habent &c. nec sunt invent &c. Iđ sicut prius pcept est Vic qđ p pbos &c. Scire fac pfat Johi Plaxton & H. C. qđ sint hic ad hunc diem scilt a die Scē Trinitatis in tres Septimanas ostens in forma pdicta &c. Et modo hic ad hunc diem scilt ad pdict tres Septimanas Scē Trinitatis ven tam pdict Johes Yates p Attorn suu pdict quam pdictus Johes Plaxton in propria persona sua Et pdict Henr Clerk per pdcm Johem Plaxton Attornatum suum Et pdict Vic sicut prius mand qđ nichil habent &c. Et super hoc pdictus Johes Yates pet execution versus pfat Johem Plaxton de pdictis trescent libris Et versus pfat Henric Clerk de pdict trescent libris p ipsos in forma pdicta separatim recogn sibi adjudicari &c.

Recital of the Recognizance.

Retorn nihil habent.

Execution prayed.

Et pdictus Johes Plaxton in propria persona sua & pdictus Henricus per eundem Johem Attornatum suum ven & dic qđ pdictus Johes Yates execution versus eos de pdictis trescent libris separatim p ipsos ut pfertur recognit virtute recognitionis pdcī habere non debet quia dic qđ pdict placitum transgr super casum ad dampn centum & quinquaginta librarum versus pfat Thomam Hall per ipsum Johem Yates in Curia dicti Domini Regis de Banco hic psecut in conditione dcē Recognitionis superius spec in & super quo eadem Recognitio sive manucaptio pdict sic ut pfertur fact fuit prosecut & locat fuit in Com Ebor p & super breve Domini Regis originat Vic Ebor direct In quo quidem placito seu actione in Com Ebor locat nullum judicium p pfat Johe Yates versus pdictum Thomam Hall post tempus Recognitionis pdict fact & ante impetrationem pdict brevis de Scire fac in dict Cur hic reddit fuit nec adhuc existit sed pdicta recuperatio sexaginta & quinq libraꝝ & decem solidorum de pdict 150 l. per dictum Johem Yates versus eundem Thomam Hall habit & obtent in dicto brevi de Scire fac mentionat habit & obtent fuit in actione sive placito transgr super casum per eundm Johem Yates versus ipsum Thomam Hall in pđ Cur hic psecut in Com Civit Ebor impetrat & locat In quo casu cum

The Defendant pleads to the *Scire Fac.* that the original was in the County of *York* at large, and no original in the County of the City of *York.*

 hujusmodi

hujusmodi variatio de Com̄ habeatur hujusmodi manucaptores sive recognitores secundum consuetudinem Curie Dn̄i Regis de Banco hic per recognitionem seu manucaptionem suam in ea parte nullo modo onerari debent Et hoc parat sunt verificare unde pet Judicium si pdict Johes Yates executiom̄ versus eos de pdict 300 l. separatim per ipsos ut pfertur recognit virtute cognitionis pd̄ habere debeat &c.

Imparlance.

Super quo pdictus Johes Yates pet licentiam inde interloquendi hucusq; a die Scī Michaelis in tres Septimanas Et habet &c. Idem dies dat est pfat Johi Plaxton & Henr hic &c. Ad quem diem hic ven̄ tam pdictus Johes Yates per Attornatum suum pdict quam pdict J. P. in propria persona sua & pdict Henr p pdict J. P. Attornatum suum Et pdict Johes Yates ulterius pet licentiam inde interloquendi hucusq; in Octabis Scī Hillarii Et habet &c. Idem dies datus est pfat J. P. & Henr hic &c. Ad quem diem hic ven̄ tam pdictus Johes Yates p Attornatum suum pdict quam pdictus J. P. in ppria persona sua Et pdict Henr p pdict J. P. Attornatum suum Et pdicus Johes Yares ulterius pet licentiam inde interloquendi hicusq; a die Pasche in quindecim dies Et habet &c. Idem dies dat est pfat J. P. & Henr hic &c. Ad quem diem hic ven̄ tam pdict Johes Yates p Attorn̄ suum pdict quam pdict J. P. in ppria persona sua Et pdict Henr p pdict J. P. Attornatum suum Et super hoc pdict Johes Yates dic qd ipse p aliqua prallegat ab executione versus pdict J. P. de pdictis trescentis libris & versus pdict Henr Clark de pdict trescent libr p ipsos in forma pdicta sepatim recogn̄ pcludi non debet quia dic qd super bre originat in plito pdict J. P. & Henr mentionat ipse idem Johes Yates Termino Scī Hillarii annis Regni dcī Dn̄i Caroli secundi nuper Regis Anglie tricesimo secundo & tricesimo tertio psecut fuisset extra pdict Cur dcī nuper Regis hic breve de Capias dicti nuper Regis Vic Ebor direct p quod breve pcept fuit eidem Vic Ebor qd caperet pdict Thomam Hall si &c. Et eum salvo &c. Ita qd haberet corpus ejus coram Justic dcī nuper Regis apud Westm̄ pdict in Crastino Ascentionis Dn̄i tunc pr' sequen̄ ad respondend eidem Johi Yates de plito quare vi & armis Clasum ipsius Johis apud Castrum Ebor fregit Et alia enormia ei intulit ad grave dampnum ipsius Johis Yates Et contra pacem dcī nuper Regis Acetiam ad respondend eidem Johi Yates secundum consuetudinem Cur de Banco hic in quodm̄ plito transgr super Casum ad dampn̄ pdict centum & quinquaginta librar Quod quidm̄ breve ipse idem Johes Yates psecut fuit ad intention̄ qd ipse secundum usum & consuetudinem ejusdem Curie de Banco hic super compencia pdict Thome Hall in eadem Curia ad retorn̄ ejusdem brevis narrare possit versus pdict Thomam Hall in actione transgr super Casum ad dampn̄ pdict 150 l. locand in Com̄ Civit Ebor Et superinde ipse idem Johes Yates postea scilt Termino Scī Hillarii annis Regni dcī nuper Regis Caroli scdi tricesimo tertio & tricesimo quarto secundum usum & consuetudinem ejusdem Curie hic narravit versus pdictum Thomam Hall in pdicta actione trnsgr super Casum ad dampn̄ pdict 150 l. in Com̄ Civit Ebor locat Et taliter in actione ill in eadem Curia hic pcess fuit qd postea scilt Termino Scī Hillarii annis Regni dicti nuper Regis tricesimo quinto & tricesimo sexto per eandem Cur cons fuit qd ipse idem Johes Yates recuperaret versus pdictum Thomam Hall pdict sexaginta & quinq; libras & decem solidos de pdict centum & quinquaginta libris qui eidem Johi Yates in eadem Curia hic adjudicat fuer pro dampnis suis que sustinuisset action̄ pdict transgr super Casum unde pdictus Thomas Hall convict est put p Recordum & proces in eadem Curia hic residen̄ liquet manifeste In quo casu cum talis recuperatio habeatur in eadm̄ actione inter easdem partes & p eisdem dampnis manucaptores in hujusmodi actione secundum usum & consuetudinem ejusdem Curie hic cum solutione dampnor sic recupat onerari debent & tenentur Et hoc parat est verifieare unde idem Johes Yates ut prius pet Judicium & executionem versus pdict

The Plaintiff replies a *Capias* on original in *B.* directed to the Sheriff of *York.*

And declared and laid in the County of the City of *York.*

And Recovery

Johem

Johem Plaxton de pdictis trescentis libris & versus pfatum Henr' Clark de pdictis trescentis libris per ipsos in forma pdicta separatim recogn sibi adjudicari &c.

Et pdictus Johes Plaxton & Henr' ut prius dic' qd pdictus Johes Pates execution versus eos de pdictis trescentis libris sepatim per ipsos ut pfertur recogn virtute recognition pdict habere non debet quia protestando qd pdict Johes Pates super pdictum breve suum originat in pdict plito ipsor J. P. & Henr' superius mencionat (existens spiale breve in plito transgr' super Casum ad dampn 150 l. prout pdictus Johes Pates superius cogn) non psecut fuit nec per usum & consuetudinem Curie Dni Regis de Banco hic prosequi potuit extra eandem Curiam hic pdict breve Domini Regis de Capias in plito transgr' vi & armis & contra pacem put pdictus Johes Pates superius allegavit protestando etiam qd pdictus Johes Pates super hujusmodi special breve suum original in Com Ebor' impetrat & locat (licet tale bre de Capias quat superius specificat est super idem breve original vel potius post idem breve de facto psecut fuisset) non narrare potuit nec debuit secundum usum & consuetudinem dicte Curie de Banco hic in at Com scilt in Com Civit Ebor' prout pdictus Johes Pates superius suppon sed per hujusmodi variationem de Com inter breve & Narr' ill hujusmodi breve & omnis processus superinde prius fact & habit (sive p manucaptionem seu aliter) sunt cassat sive discontinuat ac derelict waiviat & nullius effectus deven Et nihilominꝰ p hujusmodi Narr' si Defendens in eadem nominat convict fuit ipse tantum Defendens execution judicij illius onerabilis & onerat fuit pro plito iidem Johes Plaxton & Henric' ut prius dic' qd nullum judicium p pdicto Johe Pates versus pfatum Thomam Hall reddit fuit nec adhuc existit in pdicto plito seu actione in Com Ebor' locat sed verum est qd habebatur talis recuperatio pdict 65 l. 10 s. de dampnis quat superius specificat est super narrationem versus dictum Thomam Hall in actione sive plito transgr' super Casum ad dampnum 150 l. per ipsum Johannem Pates allegat & in Com Civit Ebor' locat & declarat post tempus recognitionis seu manucaption pdict fact prout pdictus Johes Pates supius allegavit Ac iidem Johannes Plaxton & Henric' superius cogn absq; hoc qd in isto casu licet talis recuperatio heatur in consimili vel eadem actione inter easdem partes & p eisdem dampnis hujusmodi manucaptores secundum usum & consuetudinem dicte Curie de Banco hic cum solutione dampnorum sic recuperat onerari debent & tenentur prout pdictus Johannes Pates per plitum suum pdict superius replicando plitat Et hoc parat sunt verificare prout Cur' cons unde ut prius pet Judicium & qd pdictus Johannes Pates ab executione sua pdict versus eos de pdict 300 l. sepatim p ipsos ut pfertur recogn habend pcludatur &c.

Et pdictus Johes Pates dic' qd pdict plitum pdict Johannis Plaxton & Henric' superius rejungendo plitat materiaq; in eodem content minus sufficien in lege existunt ad ipsum Johem Pates ab executione sua pdict versus pfatum J. P. de pdict 300 l. Et versus pfatum Henricu de pdict 300 l. per ipsos in forma pdicta sepatim recogn habend pcludend qdq; ipse ad placitum illud modo & forma pdict plitat necesse non habet nec p legem terre aliquo modo tenetur respondere Et hoc parat est verificare unde p defectu sufficien rejunctionis pdictor J. P. & Henr' in hac parte idem Johes Pates ut prius pet judicium & execucion versus pdict J. P. de pdict 300 l. Et vsus pfatum Hen de pdict 300 l. p ipsos in forma pdicta sepatim recogn sibi adjudicari &c. Et p causa morationis in lege in hac parte idem Johes Pates secundum formam Statut in hujusmodi casu edit & pvis ostendit Cur' hic causas sequen videlt qd pdict J. P. & Henr' p plitum suum pdict traslant materiam in lege & materiam mi traversabil &c.

The Defendant rejoyns.

Protestando.

For Plea saith, that there was no judgment against the principal laid in the County of *York*.

But confesses there was Recovery in the County of the City of *York*.

And traverses that in such case the Bail is not chargeable.

The Plaintiff demurs specially to the Rejoynder.

Because the Defendants traverse matter in Law.

Joynder in Demurrer.

Et p̄dictus Johes Plaxton & Henricus ex quo ipsi sufficient materiam in lege in p̄lito suo p̄dict superius rejungendo p̄litat ad p̄dict Johem Yates ab executione sua versus eos de p̄dictis 300 l. separatim per ipsos ut p̄fertur recognit habend p̄cludend superius allegavet quam ipsi parat sunt verificare quam quidem materiam p̄dictus Johes Yates non dedic nec ad eam aliqualiter respond sed verificationem ill admittere omnino recusat ut prius per judicium Et q̄d p̄dictus Johes Yates ab executione sua p̄dict versus eos de p̄dictis trescentis libris separatim per ipsos ut p̄fertur recognit habend p̄cludatur &c. Et quia Justic hic se advisare volunt &c.

Judgment pro Defendente.

Trespas.

Trespass.

Hill 28 & 29 Car. II. Rot.

Henley.

Wade *versus* Hatcher & Al'.

Levinz Part II. fol. 195.

Ebor. ss. MEmorandum qd alias scil. Termino Pasch ult. preterit. coram Domino Rege apud Westm. ven. Cuthbertus Wade p Cuthbertum Garth Attorn. suum & ptulit hic in Cur. dict. Dom. Regis tunc ibm quandam Billam suam versus Jonathan Hatcher & Willm Hudson in custodia Marr' &c. de Plito Transgr. Et sunt pleg. de ps. scilt. Johannes Doo & Richus Roe que quidem Billa sequitur in hec verba ss. Ebor. ss. Cuthbtus Wade queritur de Jonathan Hatcher & Willmo Hudson in Custodia Marr' Maresc. Dni Regis coram ipso Rege existen. de eo qd ipsi vicesimo secundo die Junii Anno Regni Dni nostri Caroli secundi Dei gratia nunc Regis Angl. &c. vicesimo septimo vi & armis &c. unam dom. cum ostiis obseratis ipsius Cuthbti Anglice vocat. Cuthbert Wade's Workhouse apud Richmond in Com. pdict. freger. & intraver. ac unum Textorium instrumentum Anglice a Weaver's Loame cum pertin. eidem Textorio instrumento spectan. Anglice vocat. Tacklings thereunto belonging ad valenciam viginti librar. tria liciatoria Anglice Weavers Shuttles ad vlenciam quadraginta solidor. duo ferramenta Anglice Iron Pins ad valentiam decem solidor. & un. Parcel. penson. Lanar. Anglice a Quantity of Woollen Yarn ad valenciam quinquaginta solidorum ipsius Cuthberti iu domo sua pdict. invent. adtunc & ibm ceper. & asportaver. & in usum suum ppr. converter. & disposuer. necnon ipsum Cuthbtum a possessione & occupatione domus pdict. p magnum tempus scilt. a pdicto vicesimo secundo die Junii anno vicesimo septimo supradicto usq; tertium diem Februarii tunc px. sequen. custodiver. & extratenuer. p quod idem Cuthbtus totum pficum & commodum domus pdict. p totum idem tempus totalit. perdidit & amisit & al. enormia &c. et adtunc & ibm intuler. contra pacem dict. Dom. Regis nunc ad dampn. ipsius Cuthbti quadraginta librar. Et inde produc. Sectam &c.

3 Cro. 865.
5 Rep. 49.
Playter's Case.
2 Bulstr. 317.

Trespass for entring the House, and taking Goods.

Et modo ad hunc diem scilt. diem Martis px. post Octabas scii Hillarii isto eodem Termino usq; quem diem pdict. Jonathan & Willus huer. licentiam ad Billam pdict. inloquend. & tunc ad respondend. &c. coram Dno Rege apud Westm. ven. tam pdict. Cuthbtus p Attorn. suum pdict. quam pdict. Jonathan Hatcher & Willus Hudson p Jacobum Close Attorn. suu. Et iidem Jonathan & Willus defend. vim & injur. quando &c. Et quoad venire vi & armis seu quicquid quod est contra pacem dicti Dni Regis nunc necnon totam transgr. pdict. supius fieri suppoit. pter fractionem & intrationem domus pdict. necnon continuationem in domo pdict. p spatium duodecim horarum

Plea not guilty to Part.

rarum aceciam capcon & asportacon pdict Textorii instrumenti Anglice a Weaver's Loame cum ptin eidem Textorio instrumento spectan vocat Tacklings thereunto belonging trium liciator Anglice Weavers Shuttles duorum Ferrament Anglice Iron Pins & pdict unius parcell pensor Lanarior Anglice a Quantity of Woollen Yarn, dic qd ipi in nullo sunt inde culpabiles Et de hoc pon se sup priam Et pdict Cuthbtus simit &c.

Quoad the Entry into the House, and taking the Goods,

& quoad fractionem & intrationem domus pdict necnon capcon & asportacon pdict Textorii instrumenti Anglice a Weave's Loome cum ptin eidem Textorio instrumento spectan vocat Tacklings thereunto belonging trium Liciator Anglice Weavers Shuttles duor Ferrament Anglice Iron Pins & pdict unius Parcell pensor Lanarior Anglice a Quantity of Woollen Yarn iidem Jonathan & Willus dic qd pdict Cuthbertus Actionem suam pdictam inde versus eos here seu manutenere non debet

The Defendant pleads a Recovery in the Burrough-Court of Record at *Richmond* in the County of *York* in Action on the Case against the Plaintiff at the Suit of *H. C.*

Quia dic qd ante pdict tempus quo trnsgr pdict supius fieri suppoit scilt ad Cur Dni Regis de Recordo Burgi de Richmond in Com pdict decimo quinto die Decembris anno Regni dicti Dom Regis nunc vicesimo sexto coram Majore Recordatore & Aldris Burgi pdict apud Burgum pdict tent quidam Henr Coverdale levavit quandam querelam suam versus pfat Cuthbtum de Plito trnsgr super Casum &c. Taliterq; in eadem Cur supinde pcess. fuit qd p eandem Cur tent quarto die Maii anno Regni dicti Dom Regis nunc vicesimo septimo coram Majore & Aldris Burgi pdict apud Burgum pdict considerat fuit qd pdict Henr Coverdale recuparet vsus pfat Cuthbtum Summam quadraginta & quinq; Solidor & quatuor Denarior p dampnis suis sustent occone non pformaconis cujusdam pmission ipsius Cuthberti eidem Henr fact. Et pdict Jonathan & Willielmus ulterius dic qd postea & ante pdict tempus quo &c. scilt decimo quinto die Junii anno Regni dicti Dni Regis nunc vicesimo septimo supradicto ad requisicon ipsius Henr quoddam Preceptum extra eandem Cur tent apud Burgum pdict secdm consuetudinem Burgi pdict emanavit servien ad clavam ibm necnon Henr Atkinson Ballio ejusdem Cur specialiter

Precept of *Fieri Facias.*

deputat direct p quod eis pcept fuit qd fieri facerent seu unus eor fieri faceret de Bonis & Catallis pdict Cuthberti pdict Summam quadraginta & quinq; Solidor & quatuor Denarior quos pdict Henr Coverdale p Judicium ejusdem Cur Burgi pdict p dampnis suis sustent occone non pformacon cujusdam pmission ipius Cuthberti eidem Henr fact versus pfat Cuthbtum recupasset unde idem Cuthbtus convict fuit sicut constabat de Recordo Et qd heret Denar ill ad px Cur p Burgo pdict tenend die Martis scilt vicesimo nono die Junii tunc px sequen ad reddend pfat Henr Et qd herent ibi pcept illud quod quidem Preceptum postea & ante pdictum tempus quo &c. Et ante pdict px Cur scilt vicesimo die Junii anno Regni dicti Dni Regis nunc vicesimo septimo supradicto apud Burgum de Richmond pdict pdict Jonathan Hatcher adtunc un Servien ad Clavam ejusdem Cur delibat fuit in debita juris forma exequend Et pdict Jonathan & Willus ulterius dic qd

Plead another Judgment in the same Court against the Plaintiff upon a *Non Pros.* in an Action commenced by him against *W. H.* one of the Defendants.

pdictus Cuthbtus Wade ante pdictum tempus quo trnsgr pdict supius fieri suppoit scilt ad Cur dicti Dni Regis de Recordo Burgi de Richmond in Com pdict decimo quinto die Decembris anno Regni dicti Dni Regis nunc vicesimo sexto coram Majore & Recordatore & Aldris Burgi pdict apud Burgum pdict tent quandam querelam suam vsus pfat Willm Hudson de Plito trnsgr sup Casum levavit taliterq; in eadem Cur supinde pcess. fuit qd per eandem Cur tent eodem quarto die Maii anno Regni dicti Dom Regis nunc vicesimo septimo supradicto coram Majore Recordatore & Aldris Burgi pdict apud Burgum pdict considerat fuit qd pdict Willus Hudson recuparet vsus pdict Cuthbtum Wade Summam sexdecim Solidor & un Denar p mis & custagiis suis p ipsum circa defensionem suam in ea parte sustent secundum formam Statuti inde edit & pvis & p eo qd pdict Cuthbtus non fuit psecut querelam suam vsus ipum Willmum Hudson ibm levat Et pdict Jonathan & Willmus ulterius dic qd postea & ante pdict tempus quo &c. scilt pdict decimo quinto die Junii anno Regni dicti Dom Regis nunc vicesimo

septimo

septimo ad requisicon ipsius Willmi quoddam aliud preceptum extra eandem Cur tent apud Burgum pdict secundum consuetudinem Burgi pdict emanavit Servien ad clavam ibm direct p quod eis pcept fuit qd levari facerent seu alter eor levari faceret de bonis & catallis pdict Cuthbti Wade Summam sexdecim Solidor & uni Denar qui pdict Willo Hudson in eadem Cur adjudicat fuissent p mis & custagiis suis circa defensionem suam in quadam Actione tnsgr sup Casum &c. juxta formam Statuti inde nup edit & pvis. Et Denar ill herent seu alter eor heret ad pr' Cur p Burgo predict tenend pdict die Martis scilt vicesimo nono Junii tunc pr' sequen ad reddend pfat Willmo Hudson p mis & custagiis pdict Et qd herent ibi tunc pceptum illud quod quidem pceptum postea & ante pdict tempus quo &c. & ante pdict pr' Cur scilt pdict vicesimo die Junii Anno Regni dicti Dom Regis nunc vicesimo septimo supradicto apud Burgum de Richmond pdict pdicto Jonathan Hatcher adtunc uni Servien ad Clavam ejusdem Cur delibat fuit in deba juris forma exequend virtute quor quidem separ pceptorum pdict Jonathan adtunc uni Servien ad Clavam ejusdem Cur & pdict Willus Hudson ut assistens ipsius Jonathan & in ejus auxilio postea & ante pdict pr' Cur scilt pdict vicesimo secundo die Junii Anno Regni dicti Dom Regis nunc vicesimo septimo supradicto in domum pdict (ostiis ejusdem apr existen) apud Burgum pdict & infra jurisdictionem ejusdem Cur intraver & pdict unu Textorium instrumentum Anglice a Weaver's Loom cum pertin eidem Textorio instrumento spectan vocat Tacklings thereunto belonging & tria Liciatoria Anglice Weavers Shuttles in eadem domo adtunc existen virtute pcepti pdict ad Sectam pdict Henr Coverdale & pdict duo Ferrament Anglice Iron Pins & pdict una Parcell pensor Laniarior Anglice a Quantity of Woollen Yarn in eadem domo tunc scilt existen virtute pcepti pdict ad Sectam pdict Willi Hudson in Executione ceper & asportaver put eis bene licuit que est eadem tnsgr quoad fractionem & intrationem domus pdict & continuationem in domo pdict necnon capcon & asportacon pdict Textorii instrumenti Anglice a Weaver's Loom cum ptin eidem Textorio instrument spectan vocat Tacklings thereunto belonging & triu Liciator Anglice Weavers Shuttles & duor Ferrament Anglice Iron Pins & pdict un Parcell pensor Lanarior Anglice a Quantity of Woollen Yarn unde idem Cuthbtus superius versus eos queritur Et ulterius iidem Jonathan & Willmus dic qd pdict Jonathan ad pdict pr' Cur scilt pdict vicesimo nono die Junii Anno Regni dicti Dni Regis nunc vicesimo septimo supradicto tent apud Burgum de Richmond pdict coram Majore Recordatore & Aldris Burgi illius separ pcept pdict retornavit qd ipse virtute precepti pdict ad Sectam pdict Henr Coverdale levasset Summam quadraginta & quinq Solidor & quatuor Denarior de bonis & catallis pfat Cuthbti infra Burgum pdict quos quidem quadraginta & quinq Solid & quatuor Denar idem Jonathan parat huit ad eandem Cur ad illos eidem Henr Coverdale reddend put sibi pcept fuit Ac qd ipse idem Jonathan virtute precepti pdict ad Sectam prefat Willi Hudson levasset Summam sexdecim Solidor & uni Denar de bonis & catallis pfat Cuthbti infra Burgum pdict quos quidem sexdecim Solidos & uni Denar idem Jonathan parat huit ad eandem Cur ad illos eidem Willmo Hudson reddend put sibi pcept fuit Et hoc parat sunt verificare unde pet Judicium si pdict Cuthbtus Actionem suam pdict inde versus eos here seu manutenere debeat &c. Et predictus Cuthbertus Wade dic qd ipse p aliqua per pdict Jonathan & Willm superius in barrsm ptitat ab Actione sua pdict inde vsus ipsos Jonathan & Willm hend precludi non debet Quia dic qd tempore fraccon & intracon domus pdict ostia ejusdem domus clausa fuer Anglice were shut & obserat Anglice locked Et qd iidem Jonathan & Willus ostia domus illius freger & in domum pdict intraver & bona & catalla ult mentionat ceper & asportaver modo & forma prout idem Cuthbertus supius versus eos queritur Absq hoc qd ostia domus predict adtunc apta fuer put pdict Jonathan & Willus supius ptitando allegaver

A Precept of *Levari fac'*.

And that they entred the House, the Doors being open, and made Execution in both Causes.

Plaintiff replies,

That at the time of the Entry the Doors were locked.

Traverse that they were

gaver unde ex quo pdict Jonathan & Willus tūsgr pdict fact superius fieri cogn idem Cuthbertus per judicium & dampna sua occone tūsgr ill sibi adjudicari &c.

Rejoynder, that the Doors were open, and Issue.

Et pdict Jonathan & Willus dic qd ostia domus pdict tempore fraccon & intracon domus pdict apta fuer prout pdict Jonathan & Willus superius plitando allegaver Et de hoc pon se sup patriam Et pdict Cuthbtus silic &c. Jō tm ad triand exitm istum qui ac exit int partes pdict superius junct ven inde jur coram Dom Rege apud Westm die prox' post Et qui nec &c. ad recogn &c. Quia tm &c. idem dies dat est partibus pdict ibm &c.

Judgment was staid after Verdict, and Judgment *pro Quer.* Vid. le Report.

Winford.

Hill. 32 Car. II. B. C. Rot. 1714. & Trin. 33 Rot. 1934.

Basely *versus* Clarkson.

Trespass for mowing, and carrying away Hay.

Warr. ss. THomas Clarkson nup de Bramson in Com Northton Shepherd attach fuit ad respondend Willo Baseley de Plito quare vi & armis clm ipsius Willi apud Parochiam de Wolfhamcot fregit & herbam suam ibm nuper crescen falcavit & fenum inde proveniens ad valenc quadraginta Solidor cepit & asportavit Et alia enormia ei intulit ad grave dampnum ipsius Willi & contra pacem Dñi Regis nunc &c. Et unde idem Willus p Edrum Willes Attorn suum queritur qd pdict Thomas secundo die Septembris Anno Regni dicti Dom Regis nunc tricesimo secundo vi & armis &c. Clm videlt unam peciam terre vocat a Balk & unā aliam peciam terre vocat an Hade ipsius Willmi apud parochiam de Wolfhamcot fregit & herbam suam ibm nuper crescen falcavit & fenum inde provenienс ad valenciam &c. cepit & asportavit Et al enormia &c. ad grave dampn &c. Et contra pacem &c. unde dic qd deteriorat est & dampnū het ad valenciam centum Solidor Et inde produc Sectam &c.

Non culp. to part.

Et predict Thomas Clarkson p Samuel Green Attorn suū ven & defend vim & injur quando &c. Et quoad venire vi & armis & quicquid quod est contra pacem dicti Dñi Regis dic qd ipse in nullo est culpabilis Et de hoc pon se sup patriā Et pdict Willus simil & quoad resid tūsgr in Narr pdict mentionat ipse pdict Thomas Clarkson dic qd pdict Willus Baseley Actionem suam inde versus eum here seu manutenere non debet quia dic qd ipse pdict Thomas Clarkson non het nec here clamat nec pdict tempore quo &c. huit aut here clamavit set oio disclamat here aut clamare aliquem titulum sive clameum ad vel in predictis sepalibus peciis terre ipsius Willi seu in eār aliqua in Narr pdict mencōnat Et predict Thomas Clarkson ulterius dic qd ipse pdict Thomas Clarkson predicto secundo die Septembris Anno Regni dicti Dom Regis tricesimo secundo possessionat fuit de quadā parcell terre voc a Balk & al parcell terre voc a Hade jacen & existen in parochia de Wolfhampcot pdict & juxta parcell terre pdict Willi Baseley in qua tūsgr pdict supponitur esse fact & sic possessionat existen intendens herbam suam propriam sup separ parcell terre sic ut prefertur in possessione ipsius predict Thome Clarkson existen falcar involun-

Al Residue.

The Defendant disclaims Title to the Premisses of the Plaintiff.

That he is seised of a Parcel of Land near the Plaintiffs,

voluntarie herbam sup separ parcel terre pdict Willi Baseley herbam ult mencõnat suam propriam fuisse cogitan falcavit & fenum inde provenien abinde cepit & asportavit p Plito secundum formam Statuti in hujusmodi casu edit & pvis dic qd ipse pdict Thomas Clarkson apud W. pdictam post tnsgr pdict scilt decimo die Septembris Anno tricesimo secundo supradicto, & ante impetrationem bris originalis pdict obtulit pdicto Willo Baseley duos Solidos in satisfactione tnsgr pdict sic ut prefertur involuntarie fact quos quidem duos Solidos ipse pdict Thomas Clarkson adhuc parat est solvere pdicto Willo Baseley quos quidem duos Solidos idem Willus adhunc & ibm de eodem Thoma in satisfactione tnsgr illius recipe penitus recusavit Et pdict Thomas Clarkson in fco dic qd pdict duo Solidi fuer & sunt plena & ampla satisfactio p tnsgr' pdict sic ut prefertur p pdictum Thoman Clarkson involuntarie fact Et idem Thomas ulterius in fco dic qd transgr pdict in Narr pdict mentionat p pfat Thomam fact fuit cum hoc qd tnsgr in Narr pdict mentionat & tnsgr in Plito pdict sic ut prefertur involuntarie fact allegat est una & eadem tnsgr Et hoc parat est verificare unde pet Judicium si pdict Willus Actionem suam pdict inde vlus eum here debeat &c.

And mowed the Plaintiff's Land, thinking it to be his own, and so Trespass involuntary.

That before the Action brought, he tendred 2 *s.* in amends, & *uncore prist.*

Which 2 *s.* was ample Satisfaction.

Et pdict Willus dic qd Plitum pdict pdicti Thome supius in barram plitat materiaq; in eodem content minus sufficien in lege existunt ad ipsum Willm ab Actione sua pdicta quoad pdict resid tnsgr pdict versus eum hend pcludend Quodq; ipse ad Plitum illud modo & forma pdictis plitat necesse non het nec p legem terre tenetur aliquo modo replicare Et hoc parat est verificare unde p defcu sufficien respons in hac parte idem Willus pet Judicium & dampna sua occasione tnsgr pdict sibi adjudicari &c.

Demurrer.

Et pdict Thomas ex quo ipse sufficien materiam in lege ad pdictum Willm ab Actione sua pdict quoad resid tnsgr pdict vlus ipsum Thomam hend pcludend supius allegavit quam ipse parat est verificare quam quidem materiam pdict Willus non dedic nec ad eum aliqualit respondit set verificationem illam admittere oio recusat ut prius pet Judicium Et qd pd Willus ab Actione sua pdicta hend pcludatur &c. Et quia Justic hic se advisare volunt de & sup pmissis priusqm Judicium unde reddant dies dat est partibus pdictis hicusq; a die Sci Michaelis in tres Septimanas ad audiend inde Judicium suu eo qd iidem Justic hic inde nondum &c.

Joynder in Demurrer.

Judgment pro Quer'. Vide le Report.

Pasch. 33 Car. II. C. B. Rot.

Winford.

Cole *versus* Mitchel & al.

Alias prout patet Termino Sancti Michaelis ult. preterit. Rot. 878. continetur sic.

London. ss. CArolus Mitchell nuper de Paroch Sce Katine in Com Midd Ship-Chandler Willus Battison nuper de London Pewterer Trice Hamond nuper de London Servien ad Clavam Willus Burton nuper de London Coffee-man & Johes Gurden nuper de London Yeoman attach fuer ad respondend Sare Coles vid de Plito quare vi & armis domum ipsius Sare apud London freger & intraver & bona & catal-

Rastal 142, 156, 157, 212, 139, 142, 144. *Form. Placitand.* 177. *Mo.* 74. *Dyer* 196.

Trespass *vi & armis* for entring the House, and taking away Goods.

la sua ad valenc' sexaginta Librar ibm nuper invent' ceperunt & asportaver' & alia enormia ei intuler' ad grave dampnum ipsius Sare & contra pacem Dnd Regis nunc &c. Et unde eadem Sara p Johann Oliver Attorn suu queritur qd pdict' Carolus Willus Battison Trice Hamond Willus Burton & Johes Gurden primo die Decembris Anno Regni Dnd Caroli secundi nunc Regis Angl' tricesimo primo vi & armis &c. domum ipsius Sare apud London pdict' in Paroch Sce Hellene in Warda de Bishopsgate freger' & intraver' & bona & catalla ipsius Sare videlt un incudem Anglice an Anvil & lignum Anglice the Block adinde affix' un par' folliu cum ponderibus supinde appoit' Anglice Bellows and Waits thereupon un culiculum plumbeum Anglice a Leaden Pipe septem Malleos Anglice Hammers un baculum Anglice vocat' a drenching Staff duo par' forcipu Anglice vocat' Pincers tria paria al' forcipu Anglice Tongs un vas lapis Anglice a Stone Trough un instrument' ferreum p clavibus conficiend aptatum Anglice an Iron Stake to make Nails upon un parvam incudem Anglice vocat' a prickling Block duo instrumenta ferrea Anglice vocat' Prickle Irons, un cambum ferreum duo Mortarea duo Pistil' Anglice Pestles un Patellam ferream Anglice an Iron Slice un instrumentum ferreum Anglice an Iron Becker un Cistam & septuaginta Calceos p equis Anglice Horse-shoes viginti & quatuor librat' ponder' ferri & dimid unius modii Anglice half a Bushel Clavor Anglice Horse-nailes tres funes duos pixides Anglice Shooing-Boxes, un par' Scalar' Anglice Scales cum ponderibus aliенis Anglice vocat' Brass Weights un mensur' Anglice vocat' a Half-peck octodecim modios Anglice Bushel carbonum un lapidem Anglice vocat' a Grindle-stone un aqualicum Anglice a Trough un vas ligneum continen in se viginti & quatuor congios Anglice Gallons Cervisie un al' vas Anglice vocat' a Kilderkin un Scalam Anglice a Ladder un al' lapidem Anglice vocat' a Grindstone un suppositorium Anglice a Beer-stand quinquaginta Asseres Anglice Boards un par' Cratiu ferrear' cu instrumento ferreo Anglice an Iron Back duo al' par' forcipum duas al' patellas Anglice Fire-shovels un furcam ferream un al' par' folliu quinq; verua Anglice Spits un Craticulam Anglice a Gridiron un Frictor' Angl' a Frying-pan un Calefactoriu Anglice a Warming-pan un Patellam aheneam Anglice a Brass Slice un Ollam aheneam duas Ollas ferreas duas Ollas cupreas un Mortar' ligneum un Abbacum duas Mensas tria Sedilia Anglice Joynt-Stools un Tabulam Anglice a Dresser-board un Sellam Anglice a Bench un Machinam & pondus Anglice a Jack and Weight septem Pluteos Anglice Shelves un instrumentum ligneu Anglice a Pye-board un Candelabrum ahenum un Patinam ligneam un Cathedram coriaceam un Cathedram ligneam duo al' Sedilia Anglice Stools un Securem Anglice a Hatchet un Cultrum a Chopping-Knife un Vagam Anglice a Meal-Bag un par' Calipodior Anglice Pattens un Attomentar' plumbeum stanneu Anglice a Pewter Standish una Virgam ferream una Salinam una Scalam Cistern plumbeum unu Culiculum plumbeum Anglice a Leaden Pipe duas Ollulas aheneas Anglice Brass Skillets una al' Tabulam Anglice a Dresser tria Vasia lignea unu Cribrum unu instrumentu ligneu Anglice Washing-Stool un Malleolu Anglice a Beetle una Sellam Anglice a Bench duos Pluteos Anglice Shelves una Sheddam unu instrumentu ferreu Anglice an Iron Back una Cistam tria librat' ponder' Candelar' un al' Mensam Anglice a VVainscot-Table un Fictil' Anglice an Earthen Pot replet' cum farina Anglice Flour un Dol' fictile replet' cum Farina Anglice vocat' Meal un par' Cratium Anglice vocat' Fire-Irons unum al' instrumentum ferreum Anglice vocat' an Iron-Back duo par' Andelar' fulcra duos Lectos quatuor cervical' plumea quatuor Pulvinos Anglice Pillows quatuor Thecas Anglice Pillow-beers duo Coopercula Anglice Ruggs duas Lodices laneas Anglice Blankets tria par' Curtinar' & Valor Anglice Curtains and Vallans quatuor Curtinas p fenestris Anglice Window-Curtains un Pannu p Abbaco Anglice a Cupboard-Cloath un al' pannu Anglice voc' a broad Cloath Carpet duos al' pannos

pannos Anglice voc Striped Carpets sex Pulvinar' Anglice Turkey-work Cushions quinque Cistas Anglice vocat Chest of Drawers viginti par' Lodicum Anglice Sheets duas al Mensas un Baculum Anglice a Cane duodecim Mantelia Anglice Diaper Napkins sex al Mantel Anglice vocat Table-cloaths octodecim al Mantel Anglice vocat Course Napkins and Towels duo Oremealia Anglice Holland Aprons und al Oremeale Anglice a Blue Apron unam Ollam fictilem Anglice an Earthen Bottle decem & novam Ollas vitrias Anglice voc Glass-Bottles unam Manicam Angl a Muff und Thecam Agl a Muff-case viginti Libr' sex Patinas plumbostaneas septem al Patinas unam Sportam Anglice a Basket duo Candelabra plumbostanea unam Ollam Anglice vocat a Quart-pot und Ollam vocat a Pint-pot tria Cochlear' quatuor Cultellos quattuor duodecim quadrar Anglice Trenchers octo Cathedras coreacias und Sedil Anglice a Joynt-Stool und Pulvinar' Anglice a Pillion unum Coopculum Anglice a Pillion-cloath unum Velum a Riding-hood duodecim Vitrea Anglice Glasses duodecim Fictilia Anglice Earthen Wares unum Spectaculum Anglice a Looking-Glass tres Abacos duo Fulcra Anglice two Bedsteads duos Lectos Anglice Flock-Beds duos cervical Anglice Bolsters quatuor Lodices laneas Anglice four Blankets unam Arcam Anglice a Trunk unam Cathadram Anglice a Wicker Chair unam Sellam Anglice a Bench duo Sedilia equitum Anglice Horse-pannels quingentas Librar ponder' Ferri Anglice Iron and Stubbs unum instrumentum ferreum Anglice a Fender for a Grate tres Fideculas Anglice Racks und Veru Anglice a Spit und Pixid Anglice a Deal-box un Malleum Angl a Knocker for Cloaths & und nigram Mecellam Anglice a laced black Scarf ad valenc &c. ibm tunc invent cepunt & asportaver' Et al enormia &c. ad grave dampnum &c. Et contra pacem &c. Unde dic qd deteriorat est & dampnum het ad valenc centum Librar Et inde pduc Sectam &c.

Et pd Carolus Mitchel Willus Battison Trice Hamond Willus Burton Johes Gurden p Johem Thacham Attorn suum ven & defend vim & injur quando &c. Et pet licentiam inde interloquendi hicusque in Octabis Scti Hilarii Et hent &c. idem dies dat est pfat Sare hic &c. Ad quem diem hic ven tam pdict Sara p Attorn suum pdict quam pdict Carolus Mitchel Trice Willus Burton & Johes Gurden p Attorn suum pdict Et pdict Willus Battison non ven Et sup hoc pdict Sara dic qd post ultimam continuationem Plciti pdict scilt post tres Septimanas Sci Michaelis ult pterit de quo die loquela pdict ult continuat fuit hicusque hunc diem scilt pdict Octabas Sci Hillarii & ante hunc diem scilt primo die Novembris Anno Regni dci Regis nunc tricesimo secundo pdict Willus Battison apud London pdict in Paroch & Warda pdictis obiit Et pdict Carolus Mitchell Trice Willus Burton & Johes Gurden hoc non dedic Jo nullus pcessus nec aliquid aliud vsus pfat Willum Battison in Plito pdict ultius fiat sup quo iidem Carolus Mitchell Trice Willus Burton & Johes Gurden ulterius pet licentiam inde interloquendi hicusque a die Pasche in quindecim dies Et hent &c. idem dies dat est pfat Sare hic &c. — Imparlance. — Further Imparlance for that one of the Defendants is dead.

Et modo hic ad hunc diem scilt pdict quindem Pasche ven tam pdict Sara p Attorn suum pdict qm pdict Carolus Trice Willus Burton & Johannes Gurden p Attorn suum pdict Et super hoc pdict Sara pe qd pdict Carolus Trice Willus Burton & Johes Gurden ad Narr' suam pdict respons &c. Et pdict Carolus Trice Willus Burton & Johes per Attorn suum pdict ut prius defend vim & injur quando &c. Et quoad venire vi & armis & quicquid est contra pacem Dni Regis nunc iidem Carolus Trice Willus Burton & Johes dic quod ipsi in nullo sunt inde culpabiles put eadem Sara superius inde vsus eos queritur Et de hoc pon se super patriam Et pdict Sara silit &c. Et pdict Carolus quoad fractionem & intrationem domus pdict in Narr' pdict mencionat supius fieri suppoit dic qd ipse in nullo est inde culpabilis put eadem Sara supius versus eum queritur Et de — *Quoad venire vi & armis &c. non culp.* Issue, — *Quod fract' & intracon' domus non culp. per* one Defendant

Quoad the taking away the Goods, &c. two of the Defendants plead Not guilty. Issue.

The other Defendants plead

as to the entring into the House an *Habere fac' possession'* on a Judgment in Ejectment directed to them.

Warrant to the Serjeant at Mace.

de hoc pon se super priam Et pdict Sara silit &c. Et pdict Willus Burton & Johannes quoad captionem & asportationem bonor & catallorum pdictorum in Marr pdict superius spec superius fieri suppoit dic qd ipsi in nullo sunt inde culpabiles put pdict Sara superius inde versus eos queritur Et de hoc pon se sup priam Et pdict Sara silit &c. Et pdicti Trice Willus Burton & Johannes quoad fractionem & intrationem domus pdict in Marr pdict spec superius fieri suppoit dic qd pdict Sara Actionem suam pdict inde vsus eos here non debet quia dic qd ante pdict tempus quo &c. scilt Termino Sce Trinitatis Anno Regni dicti Domini Regis nunc tricesimo primo emanavit quoddam bre ejusdem Dni Regis de here fac possessionem extra Cur dicti Dni Regis de Banco eadem Cur apud Westm in Com Midd tunc existen versus quendam Willum Smith ad Sectam cujusdam Roberti Smith tunc Vic London direct retornabile in eadem Cur a die Sci Michaelis in tres Septimanas tunc px' sequen p quod quidem bre idem Dnus Rex nunc recitan qd cum pdict Robertus tunc nuper in Cur dicti Dni Regis coram Justic ejusdem Domini Regis apud Westm p cons ejusdem Cur recupasset tmin suum adtunc ventur de & in undecim messuag cum ptin in Paroch Sce Hellene & Sci Petri Cornhil versus pfat Willum Smith que Thomas Colson Johes Widnes & Ellena ux' ejus & pdict Carolus Mitchell & Dorothea ux' ejus primo die Aprilis Anno Regni dicti Dni Regis nunc vicesimo octavo pfat Roberto apud Paroch Sce Hellene in Warda de Bishopsgate dimiser hend & occupand eidm Robto & Assign suis a Festo Annunciacon bte Marie Virgis tunc ult pterit usq finem & terminum septem annor extunc px' sequen & plenar complend & finiend qui tunc nondum ptiit Et unde pd Willus ipm Robt a firma sua pd inde ejecit Et Id idem Dnus Rex nunc eisdm Vic tunc pcepit qd pfat Robto possession suam termin sui pdict adtunc ventur de & in messuagiis pdictis cum ptin sine dilone habere facerent Et qualiter pceptum istud firmit execut constare facerent Justic ejusdem Domini Regis apud Westm a die Sci Michaelis in tres Septimanas tunc px' sequen Et qd haberent ibi tunc bre illud qd quidem bre postea & ante retorn ejusdem brevis necnon ante pdict tempus quo &c. scilt quarto die Augusti anno tricesimo primo supradicto apud London pdict in Parochia & Warda pdict quibusdm Rico Howe Mil & Johi Chapman Mil tunc Vic Civit London pdict deliberat fuit in forma juris exequend virtute cujus pdict tunc Vic postea & ante retorn brevis pdict necnon ante pdict tempus quo &c. scilt eodem quarto die Augusti anno tricesimo primo supdicto apud London pdict in parochia & warda pdict fecer quoddam warrantu suum in scriptis per quod iidem Vic pceper alicui eor servien ad clavam pdict Trice tunc existen uni eorum servien ad clavam qd ipse virtute pdict brevis dci Domini Regis de habere fac possessionem eisdm Vic direct retornabile coram Justic dci Dni Regis apud Westm a die Sci Michaelis in tres Septimanas delibaret pfat Robto Smith possessionem suam termini sui adtunc ventur & inexpirat de & in undecim mesuagiis cum ptin qd quidem warrant postea scilt eisdem die & anno ult mentionat apud London pdict in parochia & warda pdict pfat Trice Hamond in forma juris exequend delibat fuit virtute cujus quidem warranti pdict Trice sic ut pfertur uni servien ad Clavam dci Vic tunc existen pdict Willus Burton & Johes in ejus auxilium & per ejus pceptum postea & ante pdict tempus quo &c. scilt quinto die Augusti anno tricesimo primo supradicto in domum pdict in qua &c. existen uni pdict undecim mesuag in brd pdict content intraver & ipse Trice adtunc & ibidem possessionem inde pfat Robto juxta exigen brevis & warranti pdict delibavit put p warrant pdict eidm Trice Hamond sic ut pfertur mandat fuit & put eis bene licuit que est eadem fractio & intratio domus pdict in Marr pdict spec per ipsos Trice Willum Burton & Johem superius fieri suppoit unde pdict Sara superius se modo queritur absq hoc qd pdict Trice Willus Burton & Johannes sunt seu eor aliquis est culpabilis de aliqua fractione & intratione

domus

domus pdict in narr' pdict spec' ante deliberationem warranti pdcd pfat Trice Hamond seu post recordi brevis pdict Et hoc parati sunt verificare unde pet Judicium si pdict Sara actionem suam pdict quoad fractionem & intraconem domus pdict in narr' pdict spec' inde versus eos habere debeat &c. Et pdict Carolus & Trice quoad capconem & asportaconem bonorum & catallorum pdictorum in narr' pdict spec' dic' qd pdict Sara actionem suam pdict inde versus eos habere non debet quia dic' qd Civitas London est antiqua Civitas quodque infra eandem Civitatem habetur & a tempore cujus contrarii memoria hominum non existit habebatur quedam Curia Domini Regis de Recordo habens jurisdictionem de plito debi ad aliquam denar' summam quamcunque orient sive attingend super aliquo contractu sive obligacone infra Civitatem pdict fact sive emergend in aliquo computatorio Civitatis pdict coram aliquo Vic' ejusdam Civitatis p tempore existend secundum consuetudinem Civitatis pdict a toto tempore supradicto usitat & approbat in eadem quodque diu ante pdict tempus quo &c. scilt ad Curiam de Recordo dci Dni Regis Civitatis pdict tunc tent coram Rico Howe Mil adtunc uni Vic' Civitatis London pdict in computatorio suo situat in parochia Scd Mildrede Virginis in Pulletria in Warda de Cheap ejusdam Civitatis secundum consuetudinem Civitatis pdc die Veneris quinto decimo die Augusti anno tricesimo primo supradicto ven pdcus Carolus in propria persona sua & adtunc & ibm levavit versus pfatam Saram Cole p nomen Sare Cole quandam querelam suam de plito debi super demand quadraginta librarum secundum consuetudinem Civitatis pdict a tempore cujus contrar' memoria hominum non existit usitat & approbat in eadem Civitate Et adtunc & ibm invenisset pleg de p sequend querelam suam pdict scilt Johem Denn & Ricum Fenn Super qua quidem querela in eadem Cur' scdm cons Civitatis pdc a toto tempore supradicto usitat taliter processum fuit qd ad istam eandem Curiam eadem die Veneris quinto decimo die Augusti anno tricesimo primo supradicto secundum consuetudinem dce Civitatis tunc tent ad petitionem pfat Caroli Mitchel eidem Cur' tunc & ibm secund consuetudinem Civitatis pdict fact pcept fuit p pfatum Ricum Howe adtunc uni Vic' Civitatis pdc pfat Trice Hamond adtunc uni servien ad Clavam dict Vic' ac Curie illius Minister qd ipse pfat Saram Cole summonir' si invent fuit infra libertatem Civitatis pdc ad essend ad primam Curie dci Dni Regis coram pfat Rico Howe adtunc uni Vic' Civitatis pdict in Guilhald situat in parochia Scti Lawrentii in veteri Judaismo dce Civitatis die Sabti decimo sexto die Augusti pdict secundum consuetud Civitatis pdc tenend ad respondend pfato Carolo Mitchel in plito querele sue pdict secundum consuetudinem Civitatis pdc Et qd idem Trice Hamond uni servien ad Clavam dci Rici Howe Mil adtunc uni Vic' dce Civitatis ac Minister Curie illius interim superinde faceret ad dict Curiam dci Domini Regis coram pfat Rico Howe Mil adtunc uni Vic' dce Civitatis in Computatorio suo pdict dicto die Veneris decimo quinto Augusti anno tricesimo primo supradicto secundum consuetudinem Civitatis pdict tunc retornaret & certificaret virtute cujus quidem pcepti pdictus Trice Hamond uni servien ad Clavam dci Rici Howe Mil adtunc uni Vic' Civitatis pdict ac Minister Curie pdict retornabit & certificavit eidem Curie dci Dni Regis coram pfat Rico Howe Mil adtunc uni Vic' dce Civitatis in Computatorio suo pdict dco die Veneris decimo quinto die Augusti anno tricesimo primo pdict secundum consuetudinem dce Civitatis tunc tent qd pdict Sara nichil habuit infra libertatem Civitatis pdc p quod aut ubi sum potuit nec fuit invent in eadem Civitate super quo postea scilt ad eandem Curiam dci Dni Regis coram pfat Rico Howe Mil adtunc uni Vic' Civitatis pdict in Computatorio suo pdict dicto die Veneris decimo quinto die Augusti anno tricesimo primo pdict secundum consuetudinem Civitatis pdict tunc tent pdictus Carolus Mitchel in propria persona sua ven in eandem Curiam dci Dni Regis coram pfat Rico Howe Mil adtunc uni Vic' Civitatis pdict in computatorio suo pdict dicto die Veneris decimo quinto die Augusti anno tricesimo

And traverse that they are guilty *fractionis & intrationis* before the delivery of the Warrant to them, or after the return of the said Writ. *Quoad caption' & asportation' bonorum.*

They plead that

C. M. one of the Defendants levied a Pleint of debt of 40 *l.* in the *Poultry* Counter against the Plaintiff.

Process.

Summons.

Retorn nihil habet infra &c.

tricesimo primo p̄dict secundum consuetudinem Civitatis p̄dict tunc tent p̄dictus Carolus Mitchel in propria persona sua ven in eandem Curiam dcī Dnī Regis coram p̄fat Rico Howe Mil adtunc un Vic dcē Civitatis in Computario suo p̄dicto dicto die Veneris decimo quinto die Augusti anno tricesimo primo p̄dict secundum cons̄ dicte civitatis tunc tent & tunc & ibidm informavit & certificavit eidem Curie qđ ipse idem Carolus Mitchel adtunc huic diversa bona & catalla in manibus & custod suis ut de bonis & catallis p̄dict Sare Cole propr & superinde adtunc & ibidem ad dictam Curiam dicti Domi Regis coram p̄fat Rico Howe Mil adtunc un Vic civitatis p̄dict in computatorio suo p̄dict dicto die Veneris decimo quinto die Augusti anno tricesimo primo supradicto secundum consuetudinem civitatis p̄dict tunc tent p̄dict Carolus Mitchel petiit ad eadem Curiam qđ p̄dict Sara Cole p p̄dict bona & catalla in manibus & custod ipsius Caroli Mitchel existen secundum consuetudinem civitatis p̄dcē attachiaretur Ita qđ p̄dict Sara Cole esset ad dictam proximam Curiam dcī Domini Regis coram p̄fato Rico Howe Mil adtunc un Vic dicte civitatis in Guilhald p̄dicta dicto die Sabti decimo sexto die Augusti anno tricesimo primo p̄dict secundum consuetudinem civitatis p̄dcē tenend ad respondend p̄fat Carolo Mitchel in plito querele sue p̄dcē scđum consuetudinem civitatis p̄dcē Et superinde adtunc & ibm ad eandem Curiam dcī Domini Regis coram p̄fato Rico Howe Mil adtunc un Vic dcē civitatis in computatorio suo p̄dict dicto die Veneris decimo quinto die Augusti anno tricesimo primo p̄dict scđum consuetudinem dcē civitatis tunc tent ad petitionem p̄fat Caroli Mitchel eidem Curie tunc & ibm scđum consuetudinem civitatis p̄dcē fact p̄ceptum fuit p p̄fatum Ricum Howe Mil adtunc un Vic dcē civitatis p̄fat Trice Hamond un Servien ad clavam dicti Rici Howe Mil adtunc un Vic dcē civitatis ac illius Cur Minister qđ ipse scđum consuetudinem dcē civitatis p̄fat Saram Cole p p̄dict bona & catalla in narr p̄dict spec in manibus & custod dcī Caroli tunc existen attachiaret Et p̄dict bona & catalla in manibus & custod suis defend scđum consuetudinem dcē civitatis ita qđ dicta Sara Cole esset ad tunc primam Curiam dicti Domini Regis coram p̄fato Rico Howe adtunc un Vic civitatis p̄dict in Guildhald civitatis p̄dict die Sabti decimo sexto die Augusti anno tricesimo primo supradicto scđum consuetudinem dcē civitatis tenend ad respondend p̄fato Carolo Mitchel in plito querele sue p̄dict scđum consuetudinem civitatis p̄dcē Et qđ ipse idem Trice Hamond adtunc un servien ad clavam dcī Rici Howe Mil adtunc un Vic dcē civitatis ac illius Cur Minister qđ ipse interim superinde faceret ad dcam Cur dcī Domini Regis coram p̄fato Rico Howe Mil in computator suo p̄dict dicto die Veneris decimo quinto die Augusti anno tricesimo primo supradicto scđum consuetudinem dcē civitatis tent tunc retornaret & certificaret &c. Virtute cujus quidem p̄cepti p̄dcus Trice Hamond adtunc un servien ad clavam dicti Rici Howe adtunc un Vic dcē civitatis ac Minister Cur p̄dict postea scilt dicto die Veneris decimo quinto die Augusti anno tricesimo primo sup̄dicto scđum consuetudinem dcē civitatis inter horas decimam & undecimam ante meridiem ejusdem diei p̄dict Saram Cole p p̄dict bona & catalla ut de bonis & catallis dcē Sare Cole propr in manibus & custod ipsius Caroli tunc existen secundum consuetudinem ejusdem Civitatis in parochia Scē Hellene p̄dict attachiavit & bona & catalla p̄dict in manibus & custod ejus defend scđum consuetudinem dicte civitatis Ita qđ dicta Sara Cole esset ad dictam proximam Curiam dcī Domini Regis coram p̄fato Rico Howe Mil adtunc un Vic dcē civitatis in Guildhald p̄dict dicto die Sabti decimo sexto die Augusti anno tricesimo primo sup̄dicto secundum consuetudinem civitatis p̄dict Et superinde adhuc & ibm ad dictam Curiam dcī Domini Regis coram p̄fat Rico Howe Mil adtunc un Vic dcē civitatis in computatorio suo dicto die Sabti decimo sexto die Augusti anno tricesimo primo supradicto secundum consuetudinē dcē civitatis tunc tent p̄dict Trice Hamond adtunc un servien ad clavam dcī Rici Howe Mil adtunc un Vic civitatis p̄dict ac Minister

Attachment of the Goods of the Plaintiff in the hands of C. M.

Precept to attach.

Cur

Cur' predict tunc retornavit & eidem Cur' certificavit Preceptum suum predict sibi ut prefertur direct in omnibus execut & servit videlicet qd ipse virtute Precept predict sibi direct dicto die Veneris decimo quinto die Augusti anno tricesimo primo supradicto inter horas decimam & undecimam ante meridiem ejusdem diei predict Saram Cole p predict bona & catalla ut de bonis & catallis predict Sare Cole propr' in manibus & custod ipsius Caroli Mitchel existen tunc attach & predict bona & catalla in manibus & custod suis secundum consuetudinem dce civitatis defend Ita qd predict Sara Cole esset ad dictam primam Curiam dci Domini Regis coram prefat Rico Howe Mil adtunc un Vic dce civitatis in Guildhald predict dicto die Sabti decimo sexto die Augusti anno tricesimo primo supradicto secundum consuetudinem civitatis predict tenend ad respondend prefato Carolo Mitchel in placito querele sue predict scdum consuetudinem dicte civitatis Et idem dies dat fuit tunc & ibm p eandem Curiam prefat Carolo Mitchel ad essend ibm scdum consuetudinem dicte civitatis Et supinde postea & post quatuor separat defaltas p eandem Saram fact ad quatuor separat Cur tent & tunc pror' sequen apud Guildhald civitatis predict & super eandem Saram ad requisitionem predict Caroli recordat ad predict separat Cur & postquam eadem bona & cattalla scdum consuetudinem civitatis predict appreciat fuer post separat defalt predict ad octodecim libras & octodecim solidos in presentia cujusdam Robti Cole al servien ad clavam predict Rici How Mil p sacrm cujusdam Thome Cushee Staconer & Basilii Cotterel Scrivener civem civitatis predict secundum consuetudinem ejusdem civitatis a toto tempore supradicto usitat & approbat Taliterq; ulterius processum fuit qd postea scilt ad Cur dci Domi Regis coram prefat Rico Howe Mil adtunc un Vic dce civitatis in Guilhald predict tent die Sabti sexto die Septembris anno tricesimo primo supradicto cons fuit per eandem Cur' qd ipse idem Carolus Mitchel haberet executionem p predict bonis & catallis sic ut prefertur appreciat ad predict octodecim libras & octodecim solidos ut de bonis & catallis dce Sare Cole propr' in manibus & custod ejusdem Caroli Mitchel prius attach & defend scdum consuetudinem dicte civitatis p pleg p ipsum predict Carolum Mitchel tunc inveniend ad reddend & restituend predict bona & catalla vel valorem inde sic appreciat ad predict octodecim libras & actodecim solidos si predict Sara Cole infra unum annum & unum diem tunc pror' post executionem hit veniret in Cur' predict & inveniret sufficien securitatem sive manucaptores ad ipam prefat Saram Cole tunc habend ad respondend prefat Carolo Mitchel in plito querele sue predict scdum consuetudinem civitatis predict & debm suum predict disprobaret sive disronaret aut se de debo illo ullo modo exoneraret aut seipsam alicui prisone dci Dni Regis infra libertatem civitatis predict existen redderet parat ad plitand cum predict Carolo Mitchel in & super querelam suam predict scdum consuetudinem dce civitatis Et qd predict Carolus Mitchel haberet proces p resid debiti predict scdm consuet dicte civitatis sup quo postea scilt ad Cur' dci Dni Regis coram prefato Rico Howe Mil adtunc un Vic dce civitatis in computatorio suo predict decimo die Septembris anno tricesimo primo supradicto tunc tent predictus Carolus Mitchel in propria persona sua tunc ven in Cur' predict & tunc & ibm scdum consuetudinem civitatis prdce & tenorem judicii predci tunc inven sufficien manucaptorem sive pleg scilt Ludovicum Newnham Generosum per warr' affilat & Willum Eateson de St. Hellens Bishopsgate Street Pewterer cives civitatis predict ad reddend & restituend bona & catalla predict vel valorem eorundem sic ut prefertur appreciat ad predict octodecim libr' & octodecim solid si predict Sara Cole infra unum annum & unum diem tunc pror' sequen executionem veniret in Cur' predict & tunc inveniret sufficien manucaptorem sive pleg ad prefat Saram Cole tunc habend ad respondend prefat Carolo Mitchel in plito querele sue predict & debitum predict disprobaret sive disronaret aut se de debo predict ullo modo exoneraret scdum consuetudinem civitatis predict aut seipsam prisone dci Dni Regis infra libertatem civitatis predict existen tunc redderet parat ad plitand cum predict Carolo Mitchel in & super querelam suam predict scdum consuetudinem civitatis predict super quo pd Ricus Howe adtunc un

Retorn of the Precept.

And after four defaults.

And appraisement of the Goods to 18 *l.* 18 *s.*

Judgment.

To have Execution on security to restore the Goods or value.

If the Defendant in the said Action and the Plaintiff in this should find sufficient security to answer the Plaintiff in the said Action, or disprove the debt.

The Plaintiff in the said Action finds Security to restore, if, *&c.*

und Vic dcd civitatis ut pfertur existen p executione habend super Judicio pdict p bonis & catallis pdict sic ut pfertur apprecia postea & ante pdcum tempus quo &c. pdict decimo die Septembris anno tricesimo primo supdicto

Precept to the Serjeant at Mace to deliver to the Plaintiff in the said Action the said Goods in execution in part of satisfaction of his debt.

apud London pdict in parochia & warda pdict in Cur pdict pcepit pfat Trice Hamond adtunc und servien ad clavam dcd Vic ut pfertur existen quod ipse idem Trice bona & catalla predicta sic ut prefertur apprecia deliberaret pfat Carolo Mitchel in executione in parte satisfaconis debi sui pdict secundum tenorem Judicii & executionis pdict Virtute cujus pcepti pdictus Trice adtunc ut pfertur existen und servien ad clavam dcd Vic postea & ante pdict tempus quo &c. scilt pdict decimo die Septembris anno tricesimo primo supradicto apud London pdict in parochia & warda pdict bona & catalla pdict sic ut pfertur apprecia delibavit pfato Carolo Mitchel in executione in parte

Which was executed.

satisfactionis debi sui pdict secdum tenorem Judicii & executionis pdict put ei bene licuit

Que est eadem captio & asportatio, &c.

que sunt eadem captio & asportatio bonox & catallox pdictox in Narr pdict spec p ipsos Carolum & Trice superius fieri suppoit unde pdict Sara superius se modo queritur

Traverse that they are guilty before such a time or after, *vel alio modo*.

absq; hoc qd pdict Carolus & Trice sunt seu eox alter est culpabilis de captione & asportatione bonox & catallorum pdict in narr pdict spec vel alicujus inde parcell ante pdict tempus decimum quintum diem Augusti anno tricesime primo supdicto seu postea aut aliter seu aliquo alio modo quam ut pfertur Et hoc para sunt verificare unde pet Judicium si pdict Sara actionem suam pdict quoad captionem & asportation bonox & catallox pdict inde versus eos habere debeat &c.

Averment of Identities of persons and Goods.

Cum hoc qd pdcd Carolus & Trice verificare volunt qd pdcus Carolus Mitchel in narr pdict und Def. noia Et pdict Carolus Mitchel in querela & Judicio pdict in plito pdict quer mentiona est una & eadem persona & non alia neq; diversa qdq; pdcus Trice in narr pdict al Def. noia Et pdcus Trice servien ad clavam in Judicio & plito pdict nomina est una & eadem persona & non alia neq; diversa qdq; pdict Sara in narr pdict Quer nomina & pdict Sara in Judicio pdict in plito pdict mentiona Def. nomina est una & eadem persona & non alia neq; diversa qdq; bona & catalla pdict spec & bona & catalla pdict sic ut pfertur p pdict Trice pfato Carolo in executione ut pfertur delibera sunt eadem bona & catalla & non alia neq; diversa

And that the Judgment is not reversed.

qdq; Judicium pdict in & super plito pdict querele pdict Caroli in suis pleno robore & effectu permanent minime reversa adnichila seu aliqualit distrona.

Demurrer general to the Plea of three Defendants as to the fraction and entry into the House.

Et pdict Sara quoad pdictum Plitum pdictox Trice Willi Burton & Johannis quoad fractionem & intrationem domus pdict in Narr pdict superius spec in barram plita, dic qd plitum illud minus sufficien in lege existit ad ipsam Saram ab Actione sua pdict versos eosdem Trice Willm & Johannem hend pcludend qdq; ipse ad plitum illud modo & forma pdictis plita necesse non het nec p Legem terre tenetur aliquo modo respondere Et hoc para est verificare unde p defcu sufficien respons eadem Sara pet Judicium & dampna sua occone pmiss. sibi adjudicari &c.

And as to the caption and asportation of the Goods.

Et quoad pdictum Plitum pdictorum Caroli & Trice quoad captionem & asportationem bonox & catallox pdictorum in Narr pdict supius spec in barram plita eadem Sara dic qd Plitum illud minus sufficien in lege existit ad ipsam Saram ab Actione sua pdicta versus eosdem Carolum & Trice hend pcludend qdq; ipsa

Demurrer general.

ad Plitum illud modo & forma pdictis plita necesse non het nec p Legem terre tenetur aliquo modo respondere Et hoc para est verificare unde pro defcu sufficien respons eadem Sara pet Judicium & dampna sua occone premiss. sibi adjudicari &c.

Joinder in Demurrer.

Et pdict Trice Willus Burton & Johannes ex quo ipsi sufficien materiam in Lege quoad pdict Plitum pdictorum Trice, Willi Burton & Johis quoad fractionem & intrationem domus pdict in Narr pdict superius spec in barram plita ad pdict Saram ab Actione sua pdict inde versus eos hend pcludend supius allegaver quam ipsi para sunt verificare quam quidem

materaim

materiam eadem Sara non dedit nec ad eam aliqualiter respond set verificacon ill admittere oio recusat per Judicium & qd pdict Sara ab Actione sua pdict quoad fractionem & intrationem domus pdict versus eos hend precludatur &c. Et pdict Carolus & Trice quoad pdict Plitum predictorum Caroli & Trice quoad captionem & asportationem bonorum & catallorum predictor in Narr pdict superius spec superius in barram plicat ex quo ipsi sufficien materiam in Lege ad pdict Saram ab Actione sua pdict inde Hus eosdem Carolum & Trice hend precludend superius allegaver quam ipsi parat sunt verificare quam quidem materiam eadem Sara non dedit nec ad eam aliqualit respond set verificationem illam admittere omnino recusat per Judicium Et qd pdict Sara ab Actione sua pdict quoad captionem & asportationem bonorum & Catallorum pdicto Hus eosdem Carolum & Trice hend pcludatur &c. Et quia Justic hic se advisare volunt de & super pmissis priusqm Judicium Judicium inde reddant dies dat est ptibus pdictis hicusq de audiendo inde Judicio suo eo qd iidem Justic hic inde nondum &c. Joynder in Demurrer.

Mich. 34 Car. II. C. B. Rot. 472. Wyrley.

Osborn *versus* Brookhouse.

Levinz Part III. fol. 93.

Cornub. ss. Humfridus Nichols nup de St Tudy in Com pdict Ar Johannes Moyse nup de eadem Yeoman Anthus Davye nuper de eadem Yeoman Robtus Bray nup de Ezuar als Symondward in Com pdict Yeoman Robertus Philpe nuper de eadem Yeoman Sylvanus Bray nup de ead Yeoman & Johes Mathew nup de Michaelstowe in Com pdict Yeoman attach fuer ad respondend Cecilie Thomas vid de Plito quare ipsi simul cum Jacobo Woolcott nuper de St Tudy in Com pdict Yeom Pho Browning nuper de ead Yeom & Ambrosio Mathew nuper de ead Yeom vi & armis Clm ipsius Cecilie apud Ezuar als Symondward pdict freger & herbam suam ad valenc quadraginta Solidor ibm nuper crescen pedibus suis ambulando conculcaver & consumpser necnon al herbam suam ad valenc centum Solidorum in eodem clo ibm similit nuper crescen cum quibusdam Averiis depast' fuer conculcaver & consumpser ac sexaginta Oves vervices & sexaginta Oves matrices ipsius Cecilie pcii cujuslibet eorum decem Solidorum ibm tunc invent ceper chaciaver abduxer & impcaver & in pco diu detinuer necnon sexaginta al Oves vervices & sexaginta Oves matrices preci cujuslibet eor octo Solidor ipsius Cecilie ibm similit tunc etiam invent ceper chaciaver abduxer & in loca eidem Cecilie penitus incogn elongaver non permitten easdem Oves eidem Cecilie secundum legem & cons hujus Regni Anglie replegiari p quod eadem Cecilia easdem Oves totalit pdidit & amisit Et al enormia ei intuler ad grave dampnum ipsius Cecilie & contra pacem Dni Regis nunc &c. Et unde eadem Cecilia p Willum Brown Attorn suum queritur qd pdict Humfridus Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew decimo octavo die Junii Anno Dni millmo sexcentesimo & octogesimo simulcum &c. vi & armis clausum ipsius Cecilie videlt unum clausum terre vocat Hamatethy Moores als Rowler Moores als le Out-Moores apud Ezuar als Symondward pdict freger & herbam suam ibm nup crescen ad valenc &c. pedibus suis ambulando conculcaver & consumpser necnon al herbam suam ad valenc &c. in eodem clo ibm silit nuper crescen cum quibusdam Averiis videlt Equis Equabus Juvencis Vaccis Porcis Capris & bidentibus depast' Trespass *vi & armis* for entring a Close, and driving and impounding Sheep, &c.

fuer' conculcaver' & consumpser' ac sexaginta Oves vervices & sexaginta Oves matrices ipsius Cecilie preii &c. ibm tunc invent' ceper' & pdict' Oves usq; quendam pcum in parochia de Exuat al's Symondward pdict' chaciaver' & abduxer' ac Oves ill' in parco ibm diu divers' p spatium viginti horarum extunc px' sequen' detinuer' & imparcaver' necnon sexaginta al' Oves vervices & sexaginta Oves matrices preii &c. ipsius Cecilie in eodem clo adtunc & ibm invent' ceper' ceper' chaciaver' abduxer' & ad loca eidem Cecilie penitus incogn' elongaver' non pmitten' easdem Oves eidem Cecilie secundum Legem terre & cons' hujus Regni Angl' replegiari p quod eadem Cecilia easdem Oves totalit' perdidit & amisit Et al' enormia &c. ad grave dampnum &c. & contra pacem &c. unde dic' qd deteriorat' est & dampnum het' ad valentiam quadraginta Librar' Et inde pduc' Sectam &c.

Plea, not guilty to part.

Et pdict' Humfridus Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew p Willmum Beal Attorn' suum ven' & defend' vim & injur' quando &c. Et quoad venire vi & armis seu quicquid qd est contra pacem dict' Dni Regis nunc nec tot' transgr' in Narr' pdict' superius specificat' pter intracon' in clm pdict' & herbam ibm crescen' pedibus suis ambulando & al' herbam ibm cum Averiis pdict' conculcacon' depasturacon' & consumpcon' & capcon' chaciacon' & imparcaconem Ovium vervicum & Ovium matricum pdict' Cecilie in Narr' pdict' superius fieri suppoit' iidem Humfridus Johannes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew dic' qd ipsi in nullo sunt culpabiles Et de hoc pon' se super priam Et pdict' Cecilia simil' &c. Et quoad pdict' intracon' in clausum pdictum & herbam pdict' ibm crescen' pedibus suis ambulando & pdict' al' ibm crescen' cum Averiis suis pdict' conculcacon' depascacon' consumpcon' & capcon' chaciacon' & impcacon' Ovium vervicum & Ovium matricum pdict' in Narr' pdict' superius fieri suppoit' iidem Humfridus Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew dic' qd pdict' Cecilia Actionem suam pdict' inde versus eos here seu manutenere non debeat

Defendant to the residue pleads, that he is Lord of the Mannor of which the Close *quo*, &c. is parcel.

quia dic' qd pdicto tempore quo &c. & diu antea pdict' Humfridus & quidam Ricus Lower Ar' & Edrus Lower Gen' fuer' seis' & adhuc seit' existunt de & in Manerio de Hamatethy cum ptin' in Com' pdict' in Dominico suo ut de feodo de quo quidem Manerio pdict' clausum terre vocat' Hamatethy Moores al's Rowter Moores al's le Out Moores est & a tempore cujus contrarij memoria hominum non existit fuit pcel' Et sic inde seit' existen' pdict' Humfridus jure suo ppr' Et pdict' Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew p licentiam & mandat' pdict' Humfridi pdict' tempore quo &c. in clm pdict' intraver' & Averia sua pdict' ibm posuer' ad herbam ibm depascen' put eis bene licuit

That he and the other Defendants as his Servants put their Cattel into the Close to feed, and that divers other Sheep of Persons unknown, not having right of Pasture, were feeding there, which they drove out, That the Sheep of the Plaintiff were mingled with the other Sheep.

Et qd quamplur' Oves diversar' psonar' ignot' non hentes jus vel titulum cose vel depascacon' ibm eodem tempore quo &c. existen' in & sup pdict' herbam ibm tunc crescen' depascen' & dampnum ibm facien' pdict' Humfridus in jure suo pprio Et pdict' Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew ut Servien' ipsor' Humfridi Rici & Edri & p eorum mandat' eodem tempore quo &c. in clm pdict' vocat' Hamatethy Moores al's Rowter Moores al's le Out Moores pdict' ceper' & chaciaver' Oves pdict' personar' ignot' pdict' ibm tunc depascen' ad parcum infra clm pdict' ac in Paroch' de B. al's S. pdict' existen' put eis bene licuit quoq; Oves pdict' ipsius Cecilie adtunc & ibm in clo pdict' existen' cum Ovibus pdict' pdictarum personarum ignot' int' se adtunc & ibm congregaver' & commixer' rone cujus ipsi pdict' Humfridus Johes Moyse Anthus Robertus Bray Robtus Philpe Sylvanus & Johes Mathew ad separand' Oves pdict' pdicte Cecilie a pdict' al' Ovibus a necessitate moderate quia alit' convenient' separi non potuer' in pcum pdict' chaciaver' & ibm immediate ab aliis separaver' & adtunc & ibm Oves pdict' pdict' Cecilie ab aliis sic separan' in pdict' clo reliquer' que quidem intraco in clm pdict' & herbam ibidem pedibus ambulando & cum Averiis

Averiis predictis depasturaco conculcaco consumpco & chasiaco Ovium pre-dictorum pdict Cecilie in pcum pdict ex causa pdict est eadem intraco depa-sturaco conculcaco consumpco capco chasiaco & impcaco Ovium vervicum & matricum pdict Cecilie in Narr' pdict superius menconat unde pdict Cecilia superius plus eos queritur Et hoc iidem Humfridus Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew parat sunt veri-ficare unde pet Judiicum si pdict Cecilia Actionem suam pdict inde versus eos here seu manutenere debeat &c.

And that the Defendants separated the Plaintiff's Sheep as soon as conveniently they could, and left them in the Close.

Et pdict Cecilia quoad pdict Plitum pdict Humfrid Johis Moyse Anthi Robti Bray Robti Philpe Sylvani & Johis Mathew defendend in hac pte quoad pdict intrationem in clm pdict & herbam ibm crescen pedibus suis ambulando ac pdict al herbam ibidem cum Averiis pdict conculcacon de-pasturacon consumpcon capcon chasiacon & imparcacon Ovium vervicum & Ovium matricum pdict pdict Cecilie in Narr' pdict superius fieri suppōt eadem Cecilia dic qd ipsa p aliqua p pdictos Defendentes supius plitando allegat ab Actione sua pdict inde versus eos hend pcludi non debet quia quoad pdict Plitum pdictorum defend quoad pdict intracon in clm pdict & herbam ibidem crescen pedibus suis ambulando ac pdict pdictam al herbam ibidem cum Averiis pdictis conculcacon depascacon & consumpcon superius fieri suppōit eadem Cecilia dic qd Plitum pdict superius in ea parte pli-tat materiaq; in eodem content minus sufficien in lege existunt ad ipsam Ceciliam ab Actione sua pdicta inde versus ipsos Defendentes in ea pte hend pcludend ad quod quidem Plitum modo & forma pdict in ea parte plitat eadem Cecilia necesse non het nec per legem terre tenetur aliquo mo-do respondere Et p causa morationis in lege super Plitum ill eadem Ce-cilia juxta formam Statuti in hujusmodi casu nup edit & pvis ostendit & Cur' hic demonstrat causam subsequen videlt qd Plitum illud tendit tan-tum ad generalem exit de non culpabil Et hoc parat est verificare &c. Et quoad pdict Plitum pdictorum Defend quoad pdict capcon' chasiacon' & im-parcaconem Ovium vervicum & Ovium matricum pdict pdict Cecilie in Narr' pdict superius fieri suppōit eadem Cecilia dic qd bene & verum est qd pdict Humfridus Johes Moyse Anthus Robertus Bray Robertus Philpe Sylvanus & Johannes Mathew pdict tempore quo &c. Oves pdict ceper' chasiaver' & impcaver' put iidem Defendentes superius plitando allegaver' set eadem Cecilia ulterius dic qd ipsa immediate postquam pdict Defenden-tes pdict Oves vervices & pdict Oves matrices chasiassent cepissent & im-pcavissent scilt pdicto decimo octavo die Junii anno Domini 1680. apud Paroch de B. als S. in Com pdict demandavit Oves pdictas in forma pdict capt a predict Defend ac ipsos Defend adtunc & ibidem requisivit ad easdem Oves eidem Cecilie deliberand quod facere predict Defend adtunc & ibidem penitus recusaver' ac easdem Oves adtunc & ibidem ceper' & impcaver' & in pco ibidem a predicta Cecilia per spatium viginti hora-rum extunc px' sequen detinuer' & ad loca eidem Cecilie penitus incogn' elongaver' & abduxer' modo & forma put predict Cecilia superius versus eos queritur Et hoc parat est verificare unde pet Judicium & dampna sua oc-casione pmiss. sibi adjudicari &c.

Replicat'.

Quoad Entry, *& pedibus ambulando, & herbæ conculcatio.* Plaintiff demurs, for that it amounts to the general Issue.

Quoad chacement and imparcation of the Sheep. Plaintiff saith, That she demanded the Delivery of the Sheep, but the Defendants refused, and kept them 24 hours &c.

Et pdict Humfridus Anthus Johes Moyse Robtus Bray Robtus Phipe Sylvanus & Johannes Mathew quoad pdict plitum pdict Defend quoad in-tracon in clm pred & herbam ibidem crescen pedibus ambulando ac pdict al herbe ibm cum averiis pdict conculcaconem depascacon & consumpcon in narr' pred superius fieri suppōit superius plitando allegat iidem Defend ex quo ipsi sufficien materiam in lege in plito suo pdicto ac ipsam Ceciliam ab actione sua pdict inde versus ipsos Defend habend pcludend superius pli-tando allegaver' quam ipsi parat sunt vrificare quam quidem materiam pdict Cecilia non dedic nec ad eam aliqualiter respond set vificaconem ill admittere

Joynder in Demurrer *quoad* part.

admittere omnino recusat ut prius per Judicium Et qd predict Cecilia ab actione sua predict inde versus eos habend precludatur &c. Et quoad predict placitum predict Defend quoad captionem chasiationem & imparcation ovium vervicum & ovium matricum predict in narr predict superius fieri suppoñ iidem Defend ut prius dic qd ipsi ad separand oves predict predict Cecilie a predict al ovibus ex necessitate moderate quia aliter convenient separari non potuer in parcum predict chasiaver & ibm immediate ab aliis separaver & adtunc & ibm oves predict predict Cecilie ab al sic separat in clo predict reliquer put predict Defend superius placitando allegaver absq hoc qd eadem Cecilia immediate postquam predict Defend predict oves vervices & pred oves matrices chasiassent cepissent & imparcassent demandavit oves pred in forma predict capt a pred Defend &c. & ipsos adtunc & ibm requisivit ad easdem oves eidem Cecilie deliberand qd facere pred Defend adtunc & ibidem recusaver ac easdem oves adtunc & ibidem ceper imparcaver & in parco ibidem a predict Cecilia p spaciu predict vigint horar extunc prox sequent detinuer seu ad loca eidem Cecilie penitus incognit elongaver & abduxer modo & forma put predict Cecilia superius replicando allegavit Et hoc parat sunt verificare unde ut prius per Judicium Et qd predict Cecilia ab actione sua predict inde versus eos habend precludatur &c.

Rejoynder *quoad* the residue in maintenance of their Plea.

To averr the request of the delivery of the Sheep and refusal, *&c.*

Et predict Cecilia quoad pred placitum predict Humfridi Johis Moyse Anthii Robti Bray Robti Philpe Silvani & Johis Mathew quoad caption chasiacion & imparcation ovium predictor superius rejungendo placitat dic qd placitum predict p pred Defendend modo & forma pred superius rejungendo placitat ac materia in eodem content minus sufficient in lege existunt ad ipsam Ceciliam ab actione sua pd quoad caption chasiacon & imparcacon ovium vervicum & matricum pd versus predict Humfridum Johem Moyse Anthum Robtum Bray Robtum Philpe Sylvanum & Johem Mathew in ea parte habend precludend quodq ipsa ad placitum illud modo & forma predict in ea parte placitat necesse non hec nec per legem terre tenetur aliquo modo respondere Et p causa morationis in lege super plit ill eadem Cecilia juxta formam Statuti in hujusmodi casu nuper edit & provis ostendit & Cur hic demonstrat causam subsequent videlt qd pred Humfr Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew traversaver & in exit posuer tempus & locum pred demand ovium predict ubi demand pred tantum tractari debuit Ac qd traversia illa multifaria & multiplex existit incert insufficient duplex & caret forma Et hoc parat est verificare unde pro defectu sufficient placiti predictor Humfr Johis Moyse Anthii Robti Bray Robti Philpe Sylvani & Johis Mathew in hac parte eadem Cecilia per Judicium & dampna sua occasione inde sibi adjudicari &c.

Demurrer to the rejoynder special.

Cause of the Demurrer by reason of the vitious Traverse.

Et predict Humfridus Johes Moyse Anthus Robtus Bray Robtus Philpe Sylvanus & Johes Mathew ex quo ipsi sufficient materiam in lege ad predict Ceciliam ab actione sua pred versus eos habend precludend superius allegaver quam ipsi parat sunt verificare quam quidem materiam pred Cecilia non dedic nec ad eam aliqualit respond set verificacon illam admittere omnino recusat ut prius per Judicium & qd pred Cecilia ab actione sua predict versus eos habend precludatur &c. Et quia Justic hic se advisare volunt de & super premissis priusquam Judicium inde reddant dies dat est partibus predict hic &c.

Joinder in Demurrer.

Mich.

Mich. 34 Car. II.

Wyrley.

Osborne *versus* Brookhouse *&* *al'*.

Derb. ss. WIllus Brookhouse nuper de Derby in Com pred Yeom & Zacharias Whitehead nuper de Derby pdict in Com pdict Yeom attach fuer ad respondend Willo Osborne Gen de plito quare vi & armis in ipsum Willum apud Derby insult fecer & ipm verberaver vulneraver maletractaver & imprisonaver Et in prisona ibm diu detinuer & alia enormia ei intuler ad grave dampnum ipsius Willi Osborne & contra pacem Domini Regis nunc &c. Et unde idem Willielmus Osborne p Sampsonem Baker Attornatum suum queritur qd pdcus Willus Brookhouse & Zacharias decimo tertio die Junii anno Regni Domini nostri Caroli secundi nunc Regis Anglie &c. tricesimo tertio vi & armis videlt gladiis baculis & cultellis in ipm Willum Osborne apud Derby insult fecer & ipm verberaver vulneraver maletractaver & imprisonaver Et in prisona ibm diu videlt per spacium decem horarum detinuer Et alia enormia &c. Ad grave dampnum &c. Et contra pacem &c. Unde idem Willus Osborne dic qd deterioral est & dampnu habet ad valenc quadraginta librar Et inde produc sectam &c. — Trespass of Assault, Battery and Imprisonment.

Et pdict Willus Brookehouse & Zacharias p Jacobum Potteram Attornatum suum ven & defend vim & injuriam quando &c. Et quoad vi & armis necnon quoad vulneracon pred superius fieri suppolt iidem Willus Brookhouse & Zacharias dic qd ipsi in nullo sunt inde culpabiles put pdcus Willus Osborne supius vsus eos inde queritur Et de hoc pon se super patriam Et pdcus Willus Osborne similiter Et quoad resid transgr insult & imprisonament pred supius fieri supponit iidem Willus Brookhouse & Zacharias dic qd pdcus Willus Osborne actionem suam pred inde vsus eos habere non debet quia dic qd ante pred tempus quo supponitur transgr insult & imprisonament pred superius fieri scilt decimo sexto die Maii anno regni Domini Regis nunc tricesimo tertio emanavit extra Curiam Canc ejusdem Domini Regis apud Westm in Com Midd tunc existen quoddam breve ejusdem Domini Regis tunc Vic pcept Com Derb direct per quod quidem breve idem Dominus Rex nunc eidm tunc Vic precepit qd attach pfat Willum Osborne & quendam Edrum Marshal Ita qd eos haberet coram dicto Domino Rege in Canc sua in Crastino Sce Trinitatis tunc prox' futur ubicunq tunc foret ad respondend dicto Dno Regi tam de quodm contempt p pfat Willum & Edrum eidem Domino Regi illat ut dicebatur quam de hiis que sibi adtunc & ibm objicientur & ad faciend ulterius & recipiend qd dict Cur dcd Dni Regis consideraret in ea pte Et hoc nullatenus omitteret Et qd haberet ibi breve illud qd quidem breve postea & ante retorn inde scilt vicesimo tertio die Maij anno Regni Dom Regis nunc tricesimo tertio supdicto apud Derb pred cuidam Henrico Balgay jun Ar tunc Vic pred Com Derb existen in forma juris exequend deliberat fuit p quod idem adtunc Vic adtunc & ibidem fec & direxit quoddm warrantum suum sub sigillo officii sui sigillat quod quidem warrantum iide Willus Brookhouse & Zacharias hic in Cur profer cujus dat est eisdem die & anno Majori Ville de Derb necnon servien ad clavem ibm quibus executionem omnium brevium infra pred Villam de Derb restabat faciend p quod quidem warrantum idem tunc Vic eisdem tunc Majori & servien ad clavem conjunctim & divisim mandavit qd attach seu aliquis eor attach pfat Willum Osborne si &c. Et eum salvo custod &c. Ita qd haberet corpus ejus — Not guilty to part. As to the residue the Defendant justifies by virtue of an Attachment out of *Chancery*. Attachment recited. Attachment delivered to the Sheriff. Who directed his Warrant to the Maior of *Darby*, and the Serjeant at Mace.

ejus coram dicto Dño Rege in Cur' Canc' dci' Dni' Regis in Crastino Sce' Trinitatis ad respondend' dicto Dño Regi tam de quodm' contemptu p' pfat' Willum dicto Dño Regi illat' &c. virtute cujus quidm' warrant' iidem Willus Brookhouse & Zacharias tunc servien' ad clavem p'red' Ville de Derb' existen' postea & ante retorn' p'red' brevis scilt vicesimo septimo die Maii anno Regni dci' Dni' Regis nunc tricesimo tertio supdicto apud Derb' p'red' manus suas super pfat' Willum Osborne imposuer' & ipm' Willum Osborne adtunc & ibm' ceper' & arrestaver' & ipsum in prisona adtunc & ibm' p' spaciu' p'red' detinuer' Que quidem captio arrestaco' imposico' manuu' imprisonament' & in prisona detenco' p'red' Willi Osborne p' tempus p'red' in forma & ex causa p'red' sunt idem tress' transgr' insult' imprisonament' & detentionis in prisona pd' Willielmi Osborne per tempus p'red' in forma & ex causa p'red' sunt iiden' tress' transgr' insult' imprisonament' & detentionis in prisona p'red' Willi Osborne per tempus p'red' unde pdcus Willus Osborne se modo queritur Absq; hoc qd' iidem Willus Brookhouse & Zacharias sunt culpabil' de transgr' insult' & imprisonament' superius fieri supponit' ad aliquod tempus ante p'red' vicesimum tertium diem Maii anno Regni dci' Dni' Regis nunc tricesimo tertio supradicto seu ad aliquod tempus post retorn' brevis pdci' Et hoc parat' sunt verificare unde pet' Judicium si pdcus Willus Osborne actionem suam pdcm' inde versus eos habere debeat &c.

That the Defendants were Serjeants at Mace.

Who arrested the Plaintiff.

The Defendants traverse that they are guilty before such a day or after the return of the Writ.

Et pdcus Willus Osborne dic' qd' ipse per aliqua p' p'red' Willielmum Brookhouse & Zachariam superius placitando allegat ab actione sua p'red' versus eos habend' preludi non debet quia dic' qd' p'red' W. B. & Zacharias de injur' suis propr' in ipm' Willum Osborne apud Derb' pdict' insult' fecer' & ipm' verberaver' vulneraver' maletractaver' & imprisonaver' & in prisona ibm' diu videlt p' spacium decem horarum detinuer' put idem Willus Osborne superius versus pdict' Willum Brookhouse & Zachariam queritur Absq; hoc qd' ante transgr' insult' & imprisonament' p'red' fact' p'red' breve de attach' extra Cur' Canc' pdict' sic ut pfertur emanat' p'red' Henr' Balgay jun' Armig' tunc Vic' pdict' Com' Derb' existen' in forma juris exequend' deliberat' fuit put p'red' W. B. & Zacharias superius plitando allegaver' Et hoc parat' est verificare unde ex quo pdict' W. B. & Zacharias transgr' insult' & imprisonament' p'red' superius cogn' idem Willielmus Osborne pet' Judicium & dampna sua occasione transgr' insult' & imprisonament' ill' sibi adjudicari &c.

Replication *de injuria sua propria.*

And traverseth that before the Trespass the Attachment was delivered to the Sheriff.

Et pdicti Willus Brookhouse & Zacharias ut prius dic' qd' p'red' breve de Attach' post p'red' emanacon' inde & ante retorn' ejusdem scilt pdicto vicesimo tertio die Maii anno tricesimo tertio supradicto apud Derb' p'red' pfat' Henrico Balgay tunc Vic' Com' p'red' deliberat' fuit Quodq; ipsi iidem Willielmus & Zacharias tunc servien' ad clavem p'red' Ville de Derb' existen' post pdcm' Warrant' p'red' Henr' Balgay tunc Vic' p'red' Com' Derb' eisde' Willo Brookhouse & Zacharie servien' ad clavem p'red' Ville de Derb' deliberat' & non antea manus suas super pfat' Willielmum Osburne virtute warrant' p'red' imposuer' Et ipsum adtunc & ibidem ceper' arrestaver' & per spacium p'red' detinuer' modo & forma prout ipsi iidem Willielmus Brookhouse & Zacharias superius inde placitando allegaver' Et iidem Willus Brookhouse & Zacharias ulterius dic' qd' ipsi iidem Willus Brookhouse & Zacharias ad aliquod tempus ante captionem & imprisonament' p'red' virtute Warrant' pdict' ut pfertur fact' nullam noticiam habuer' sed qd' breve de Attach' pfat' Henric' Balgay tunc Vic' p'red' Com' Derb' ut pfertur existen' ante transgr' insult' & imprisonament' p'red' ut pfertur fact' deliberat' fuit Et hoc parati sunt verificare unde ut prius pet' Judicium & qd' pdcus Willielmus Osborne ab actione sua predicta inde versus eos habend' precludatur &c.

Rejoynder, that the Attachment after the issuing of it out and before the Return (such a day) was delivered to the Sheriff. And that they after the warrant delivered to them, and not before arrested the Plaintiff. Defendants further say that they had notice, but that the Writ of Attachment was delivered to the Sheriff before the Trespass.

Et prædictus Willus Osborne ut prius dic' qd ante transgr' insult & imprisonment prædict fact prædict breve de Attach extra Cur' Canc' præd sic ut prefertur emanat per Henric Belgay jun Armig tunc Vic' prædict Com Derb existen in forma juris exequend non deliberat fuit Et hoc parat est verificare unde ex quo prædict Willus Brookhouse & Zacharias transgr' insult & imprisonament præd sic ut prefertur cogn idem Willus Osborne ut prius pet Judicium & dampna sua occasione transgr' insult & imprisonament ill sibi adjudicari &c. — Surrejoinder, that the Attachment to the Sheriff before the Imprisonment.

Levinz Part III. Fol. 190.

Et prædict Willus Brookhouse & Zacharias ut prius dic qd ipsi iidem Willielmus & Zacharias ad aliquod tempus ante captionem & imprisonament præd virtute warrant præd ut prefertur fact nullam noticiam habuer sed qd prædict breve de Attach præfat Henrico Balgay tunc Vic' præd Com Derb ante capcon & imprisonament præd ut prefertur fact deliberat fuit put ipsi iidem Willus & Zacharias superius inde rejungendo allegaver Et de hoc pon se super patriam. — Rebutter, that the Defendants had no notice, *ut supra*. Issue.

Et prædict Willus Osborne dic qd prædcm plitum prædict Willi Brookhouse & Zacharie superius repellendo plitat ac materia in eodem content minus sufficien in lege existunt ad ipsum Willum Osborne ab actione sua præd versus præfat Willum Brookhouse & Zachariam habend præcludend quoq; ipse ad plitum illud modo & forma præd placitat necesse non habet nec per legem terre tenetur respondere Et hoc parat est verificare unde pro defectu sufficien pliti prædict Willi Brookhouse & Zacharie in hac parte idem Willielmus Osborne ut prius pet judicium & dampna sua occasione transgr' insult & imprisonament præd sibi adjudicari &c. — The Plaintiff demurs general.

Et prædicti Willus Brookhouse & Zacharias ex quo ipsi sufficien materia in lege ad prædcm Willum Osborne ab actione sua præd versus ipsos Willielmum Brookhouse & Zachariam habend præcludend superius allegaver quam ipsi parat sunt verificare quam quidem materiam prædcus Willus Osborne non dedic nec ad eam aliqualit respond set verificationem illam admittere omnino recusat ut prius pet Judicium Et qd prædcus Willus Osborne ab actione sua præd versus eos habend præcludatur &c. Et quia Justic' hic se advisare volunt de & super præmissis unde partes præd superius se posuer' in Judicium Cur' priusqm Judicium inde reddant dies dat est partibus prædict hicusq; in Octab Scti Hillarii de audiend inde Judicio suo eo qd iidem Justic' hic inde nondum &c. Et quoad triand exit prædict inter partes prædict per patriam triand superius junct præcept est Vic' qd Venire fac' hic a die Scti Martini in quindecim dies duodecim &c. per quos &c. Et qui nec &c. Ad recogn &c. Quia tam &c. — Joinder in Demurrer. *Curia advisare vult*, as to the matter in Law. *Venire* as the Issue.

Judgment pro Defendente per totam Curiam.

Trin. 36 Car. II. B. C. Rot. 1508.

Chafin *versus* Betsworth.

Levinz Part III. Fol. 190.

Trespass for erecting a Stall in a Market place.

South. ss. Thomas Betsworth nuper de Alton in Com pred Butcher attach fuit ad respondend Thome Chafin Armig de placito quare vi & armis clausum ipsius Thome Chafin apud Alton Westbrook in Com pred fregit Et ibm erexit & usitavit unum stabulum Anglice a Stall Et alia enormia ei intulit ad grave dampnum ipsius T. C. Et contra pacem Domini Regis nunc &c. Et unde idem T. B. per Edrum Fisher Attornatum suum queritur qd pred Thomas Betsworth vicesimo primo die Julii anno Regni Domini Caroli secundi nunc Regis Anglie &c. tricesimo quinto vi & armis &c. clum ipsius Thome Chafin vocat the Market place apud A. pred fregit & adtunc & ibm erexit & usitavit un Stabulum Anglice a Stall Et alia enormia &c. Ad grave dampnum &c. Et contra pacem &c. Unde idem T. C. dic qd deteriorat est Et dampnum habet ad valenciam viginti librar Et inde pduc sectam &c.

Et pdictus Thomas Betsworth per Henric Collier Attornatum suu ven & defend vim & injuriam quando &c. Et quoad venire vi & armis seu quicquid quod est contra pacem dci Dni Regis idem T. B. dic qd ipse non est inde culpabilis Et de hoc pon se super patriam Et pdict T. C. similiter Et quoad resid transgr pred superius fieri supponit idem T. B. dic qd pdict T. C. actionem suam pdict inde versus eum habere non debet quia dic qd manerium de A. in Com S. pdict est de antiquo dominico Coron Domini Regis Anglie quoq ipse idem T. B. pred tempore quo supponitur transgr pred fieri & diu antea seisit fuit Et adhuc seisit existit de & in dimid unius acre terre cum pertin in A. pdict in dominico suo ut de feodo tent de manerio pdict quoq infra manerium pdict est & a tempore cujus contrar memoria hominum non existit fuit com mercat tent die Sabti in qualibet septimana in pdict loco in quo &c. vocat the Market place quoq infra marium pdict a toto tempore supradicto hactenus usitat & approbat habetur & a toto tempore cujus contrarij memoria hominum non existit fuit quedam antiqua consuetudo infra idem Manerium quod omnes & singuli tenen ejusdem Manerij quieti sunt & esse debeant de Stallagio in Mercat pdict p aliquibus bonis & rebus suis vendend & pro rebus & bonis suis vendend Stabul Anglice a Stall in Mercat pd de tempore in tempus ad libitum suum erexer & usitaver & erigere & usitare consuever qualibet die Mercat Anglice Market-day Et idem Thomas Betsworth ulterius dic qd ipse idem T. B. pdict tempore quo &c. existen lanius & sic ut prefertur tenens manerii pdict in clo ipsius T. C. predict vocat le Market-place existen commune Mercat pdict intravit et adtunc & ibidem erexit super terram ibid Stabulum suum pdict ad vendend carnem pd tempore qao &c. existen die Mercat Anglice Market-day put ei bene licuit que est eadem fractio Cli pd & erecco & usitaco Stabuli predict unde predict T. C. superius se modo queritur Et hoc parat est verificare unde pet Judicium si pdict T. C. action suam pdict vsus eum here debeat &c.

That the Defendant pleads that the Mannor of *A.* is ancient Demesne.
That he is seised in Fee of half an Acre of Land held of the said Mannor.

Et pdict Thomas Chafin quoad pdictum Ptitum pdict Thome Betsworth quoad pdict resid tnsgr pd superius fieri suppoit superius in barram ptitat dic

dic' qd Plitum ill' & materia in eodem content' minus sufficien in lege existunt ad ipsum T. C. ab Actione sua pdict' versus pfat' T. B. hend precludend quoq; ipse ad Plitum ill' modo & forma pdict' plitat' necesse non het nec per le em terre tenetur respondere Et hoc parat' est verificare unde p defectu sufficien pliti pdict' T. B. in hac parte idem T. C. pet' Judicium & dampna sua occone transgr' pdict' sibi adjudicari &c. Et p causis moracon in lege idem T. C. secundum formam Statuti in hujusmodi casu edit' & provis ostendit Cur' hic causas subsequen videlt qd in Plito predicto non allegatur qd T. B. tenet de Dno Manerij pdict' nec quomodo nec per que Servicia idem Thomas Betsworth seit existit de pdict' dimid acre terre tent' de Manerio pdict' Quoq; idem Plitum est informale & incertum Acetiam qd consuetud pdict' in Plito pdict' T. B. allegat' est vacua & contra legem &c. Demurrer especial. Causes, because the Defendant doth not say he held of the Lord of the Mannor, nor by what Service, and because the Custom is void in Law.

Et pdict' Thomas Betsworth ex quo ipse sufficien materiam in lege ad pdict' Thomam Chafin ab actione sua pdict' versus ipsum T. B. hend precludend superius allegavit quam ipse parat' est verificare quam quidem materiam pdict' T. C. non dedic' nec ad eam aliqualiter respond set verificationem illam admittere oio recusat ut prius pet' Judicium Et qd pdict' Thomas Chafin ab Actione sua pdict' hend pcludatur &c. Et quia Justic' hic se advisare volunt &c. Joynder in Demurrer.

The Custom is laid *pro rebus & bonis suis vendend.* and alledgeth *erexit Stabulum ad vendend. carnem*, and saith not *suam. Per tot. Cur.* ill Plea, but agreed to be amended.

Mich. 36 Car. II. C. B. Rot. 825.

Adney *versus* Vernon & Al'.

Levinz Part II. fol. 243.

Civit. Wigorn. RIchardus Vernon nuper de Civitat' pdict' Clothier Thomas Winton' nuper de civitate Wigorn' in Com civit' pdict' Clothier Richardus Morris nup de civitat' Wigorn' in Com civit' pdict' Clothier Johes Alderne nup de civitate Wigorn' in Com civitat' pdict' Clothier & Robertus Burst nuper de civit' Wigorn' in Com civitat' predict' Clothier attach fuer' ad respondend Rico Adney de Placito quare ipsi simulcum Samuele Morris nup de civitat' Wigorn' in Com civitat' pdict' Clothier & Johanne Baker nup de civitat' Wigorn' in Com civitat' pdict' Brasier vi & armis domus ipsius Richi Adney apud civitat' Wigorn' freger' & intraver' ac diversa bona & catalla ipsius Richardi Adney ad valenciam centum Librar adtunc & ibidem nup invent' ceper' & asportaver' & alia enormia ei intuler' ad grave dampnum ipsius Richi Adney & contra pacem Dom Regis nunc &c. Et unde idem Richus Adney per Thomam Twitter Attorn' suum queritur qd pdici Ricus Vernon Thomas Winton' Ricus Morris Robertus Burt & Johes Alderne simulcum &c. decimo die Julij Anno Regni Dom Regis nunc tricesimo quinto vi & armis &c. domum ipsius Rici Adney apud civitat' Wigorn' freger' & intraver' ac diversa bona & catalla videlt unum lectum pulvinar' unam cultrinam laneam Anglice Flock-Bed unum servicale pulvinar' Anglice Feather Bolster unum servicale laneum 1 *Sanders* 74. Trespass *vi & armis* for breaking the House, and taking away Goods.

Anglice a Flock Bolster duas storias Anglice Bed-Mats tria fulcra Bed-steads sex spirides unum pluteum Anglice a Desk duas duodenas crinales Anglice Rolls duas duodenas ventrecal Anglice Belly pieces unum junctum sedile magnum batillum Anglice a Fire-shovel unum magnum par' forcipum unum al parvum par' forcipum duos abatos Anglice Side-Cupborards unum magnum loculum Anglice a Cupboard unum loculum tres pulvinos Anglice Cushions unum sedile unam cofferam duas cistas quatuor levidentia manutergia Anglice course Towels duodecim Ribros unum par lodicum duo tegula Anglice Blankets unum cisum Anglice Trunk decem cathedras unum vestrarium Anglice a standing Press quadraginta pondera staminum Anglice Warpe quadraginta pondera subleguini Anglice Wooff viginti duo pondera lame levat unum pondum serracum quatuordecim librat viginti & sex librat Nicotiane Anglice Tobacco unam stratam Anglice a Beam of Scales & unum par' bilanrium Anglice Scales unum al par' bilanrium ereum decem pondos plumbeos unum dorciale Anglice a Pillion unam sellam aquiam unum clitelle Anglice a Pad unam sportam Anglice a Flasket unum corbem unam bulgam Anglice a Moole unam bargam unam forcam Anglice a Pitch-fork novem librat pluvij duos rhombos Anglice Spinning-wheels tres cophinos Anglice Ripes unam ollulam Anglice a Pipkin continen̄ tres quartas olij & liquaminis Anglice liquor unam mensam extens. unam mensam rotundam unam tabulam sectilem Anglice a Table-board unam tapetem Anglice a Carpet unū speculum unam peciam panni lanei Anglice a broad Cloath continen̄ quadraginta & sex virgat unam sellam unum diversorium Anglice a Jack cum cordis & ponderib; suis tres claves Anglice Spike-Nails tres obelos duo deguttoria ferrea Anglice Iron Dripping-pans unum deguttorium stanneum unam pensilem eream Anglice a Brass Chell unum tostorium unum lardarium ereū Anglice a Brass Balting spoon unum dispumatorium ereum Anglice a Brass Skimmer unam vectam Anglice an Iron Bar unum par' ferraturarum Anglice Cheeks unum par' sustentaculor̄ ferreor̄ Anglice Cobirons unum ignitaculum Anglice a Chafingdish unam graticulam Anglice a Gridiron unā bracteam Anglice a Fire-plate duas ollas ereas unum calificiū lectuale Angl a Warming-pan sexdecim magnos discos cinēij Anglice Pewter-dishes quinq; catellos Anglice Porringers quinq; laminos Anglice Plates tria patella sanguinal Anglice Blood-dishes unam ollam sinapinam Anglice a Mustard-pot duo candelabra unum salinum Anglice Salt-seller unam follem unam lucernam tres lamas stanneas Anglice Tunning-plates p nicotianū unum forficem Anglice Garden-sheers duas mallas Anglice Hammers unum par' forcipuum Anglice Pincers unam serram Anglice a Saw unam cistam Anglice a Chisel unum stanirium Anglice a Form quinq; duodena quadrar̄ Anglice Trenchers unam fornacem studeba Anglice Fire-irons unum vasem pandororium Anglice Meashfate tres cucullos Anglice Towels septem cupas Anglice Tubs unum barellum unum vasem Anglice a Tundish octo dolia servicie illupillat unum citellum Anglice a Gaun unum polviarium Anglice a strain-Sieve unum modiolum Anglice a Peck ipsius Rici Adney ad valentiam &c. adtunc & ibidem nuper invent ceper' & asportaver' & alia enormia &c. ad grave dampnum &c. Et contra pacem &c. unde dic' qđ deteriorat est Et het ad valentiam ducentarum librar̄ Et inde pduc' Sectam &c. Et pdict Ricus Vernon Thomas Winton Ricus Morris & Johes Aldern p Johem Astely Juniorem Attorn̄ suum Et pdict Robtus Burt p Georgium Twitcey Attorn̄ suum ven̄ & defend vim & injur' quando &c. Et pdict Ricus Vernon Thomas Winton Ricus Morris & Johes Alderne quoad venire vi & armis dic' qđ ipsi in nullo sunt inde culpabiles Et de hoc pon̄ se super patriam Et pdict Ricus Adney inde similit Et quoad fractionem & intrationem domus pdict & captionem & asportationem pdicte pecie panni lanei supius fieri supposit iidem Ricus Vernon Thomas Winton Ricus Morris & Johes Alderne dic' qđ pdict Ricus Adney Actionem suam pdictam inde Bsus eos here non debet quia dic' qđ Civitas Wigorn̄ est & a tempore cujus

The Defendants justifie As to a piece of Woollen Cloath by Process in *Worcester* Court,

cujus contrarij memoria hominum non existit fuit antiqua Civitas hujus Regni Angl quodque infra eandem Civitatem hetur & a toto tempore supradicto Hebatur quedam Cur' de Recordo dicti Dom Regis nunc & Progenitorum suorum Regum & Reginarum Anglie tent coram Ballivis & Aldr'is Civitatis predict usque secundum diem Octobris anno Regni Dni Jacobi nuper Regis Angl decimo nono & Scotie quinquagesimo quinto & postea coram Majore Recordatore & Aldr'is Civitatis predicte pro tempore existent vel coram aliquibus tribus vel pluribus eorum de omnibus Actionibus personalibus quibuscunque infra eandem Civitatem emergent quodque diu ante predictum tempus quo supponitur fractionem & intractionem domus predict & captionem & asportationem predict pecie panni lanei superius fieri suppo'it scil't septimo die Augusti Anno Regni dicti Dni Regis nunc tricesimo quarto in predict Cur' de Recordo dicti Dom Regis nunc Civitatis predict tent in Guihall Civitat predict & Thoma Street Mil tunc Recordatore ejusdem Civitatis & Jacobo Higgens Edro Selley Edmundo Pitt & al tunc Aldr'is ejusdem Civitatis secundum consuetudinem illius Civitatis predict quidam Robertus Burt in propria persona sua vent & adtunc & ibidem secundum consuetudinem civitatis predict levavit quandam querelam suam versus predict Ricum Adney in Plito debi decem Librarum Et adtunc & ibm petiit processum Cur' predict versus prefat Ricum Adney ad sectam ipsius Roberti Burt in loquela predict sibi fiend secundum consuetudinem civitatis predict Et ei adtunc & ibidem concedebatur Super quo adtunc & secundum consuetudinem civitatis predict a toto tempore supradicto usitat & approbat precept fuit per eandem Cur' dicti Domini Regis civit predict Servienti ad clavam ejusdem civitatis qd attach seu &c. predict Ricardum Adney p corpus sive p bona vel catalla sua ita qd esset ad pr' Cur' dicti Dom Regis civitat predict apud Guihald civitatis predict coram prefat Majore Recordatore & Aldr'is civit predict tenend ad respondend eidem Roberto Burt de predict Plito debiti Idem dies tunc dat fuit eidem Rico Adney per eandem Cur' ibm &c. talit in eadem Cur' civit predicte in loquela predicta process. fuit qd postea & ante predict tempus quo &c. scil't ad Cur' dicti Dom Regis de Recordo civitatis predict apud Guihald predictam coram prefat Majore Recordatore & Aldr'is civitatis predict die Lune secundo die Octobris Anno Regni dicti Domini Regis nunc tricesimo quarto supradicto tent apud eandem Cur' cons fuit qd predictus Robertus Burt recuperaret versus prefat Ricum Adney predict debitum suum decem Librarum & dampna sua occone detentionis debi illius ad tresdecim solidos & sex denar eidem Roberto Burt ex assensu suo p eandem Cur' adjudicat super quo quidem Judicio versus prefat Ricardum Adney in forma predicta reddit predict Robertus Burt postea & ante predict tempus quo &c. scil't ad eandem Cur' dicti Dom Regis de Recordo civitatis predict apud Guihald predict coram prefat Majore Recordatore & Aldris civit predict predicto secundo die Octobris anno tricesimo quarto supradicto petiit executionem versus predictum Ricardum Adney pro debito & dampnis predict p quod per eandem Cur' adtunc & ibm precept fuit Servient ad clavam ejusdem civitatis seu &c. qd de bonis & catallis predict Rici Adney infra civit predict fieri fac' tam predict debm decem Librarum quam predictos tresdecim Solidos & sex Denar p dampnis predictis Et Denar ill' haberent seu &c. ad pr' Cur' civit predict apud Guihald civitatis predict coram prefat Majore Recordatore & Aldr'is Civitatis predict tunc tenend ad reddend prefat Roberto de debito & dampnis predict quod quidem scriptum postea & ante predict tempus quo &c. & ante adtunc pr' Cur' civit predict scil't eodem secundo die Octobris Anno tricesimo quarto supradicto apud civit Wigorn predict eidem Thome Winton tunc uni Servient ad clavam & Ministro Cur' predict existent deliberat fuit in forma juris exequend virtute cujus quidem precepti postea & ante predictam pr' Cur' civitat predict scil't eodem secundo die Octobris Anno tricesimo quarto supradicto apud civitat Wigorn predict & infra Jurisdictionem Cur' predicte idem Thomas Winton & predicti Ricus Vernon Ricardus Morris & Johes Alderne p precept ipsius Thome Winton & in ejus auxilium

That *Worcester* is an ancient City,

That there is a Court of Record.

(*Note*, He shews not how the Stile of the Court came to be altred.)

of all Actions personal whatsoever within the Jurisdiction.

That *Robert Burt* one of these Defendant levied a Plaint there against the now Plaintiff for 10 *l.* Debt. (shews not that the Debt did arise within the Jurisdiction of the Court.)

Precept to the Serjeant at Mace there.

[*Per corpus* is ill without a Summons.]

Secundo die Octobr. 34 *Car.* Judgment was given against the now Plaintiff there.

Precept to the Serjeant at Mace to make Execution by *Fieri fac'*.

auxilium simulcum pdict Thoma Winton domum pdict in Narratione predict mentionat ostium ejusdem domus adtunc separt existend ad predictam peciam panni lanei pdict Ricardi Adney ibm existend in executione p debo & dampnis predictis capiend & seziand intraver Et eandem peciam panni ut bona & catalla pdict Rici Adney ppr in domo pdict invent & executione p debo & dampnis pd ceper & asportaver put eis bene licuit que quidem intratio domus pdict & captio & asportatio pdict pecie panni lanei ex causa pdict &

Quæ est eadem fractio.

in forma pdict fact sunt eedem fractio & intratio domus pdict & captio & asportatio pdict pecie panni lanei unde pdict Ricus Adney superius se modo queritur absq; hoc qd ipsi iidem Ricus Vernon Thomas Winton Ricus Morris & Johes Alderne sunt culpabiles de transgr pdict pdict decimo die Julii anno tricesimo quinto supradicto vel ad aliquod tempus post predictum secundum diem Octobris Anno tricesimo quarto supradicto modo & forma put pdict Ricardus Adney superius inde versus eos queritur Et hoc parat sunt verificare unde pet Judicium si pdict Ricus Adney Actionem suam pdictam quoad fractionem & intrationem domus pdict & captionem & asportationem pdict pecie panni lanei vsus eos here debeat &c.

Traverse, that they are guilty *pred.* 10 *July* at any time after the 2d. day of *Octob.* ill Traverse.

Et quoad fractionem & intrationem domus pdict & captionem & asportationem pdictor resid bonorum & catallor pdictor in Narratione pdict specificat superius fieri suppoit iidem Ricus Vernon Thomas Winton Ricus Morris & Johes Alderne dic qd predictus Ricardus Adney Actionem suam pdict inde vsus eos here non debet Quia dic qd civitas Wigorn est & a tempore cujus contrarij memoria hominum non existit fuit antiqua civitas hujus Regni Angl quoq; infra eandem civitatem hetur & a toto tempore supradicto hebatur quedam Cur de Recordo dcd Dni Regis nunc & Progenitorum suorum Regum & Reginarum Angl tent coram Ballis & Aldris civitatis pdict usq; secundum diem Octobris Anno Regni dcd Domini Jacobi nup Regis Anglie decimo nono & Scot quinquagesimo quinto Et postea coram Majore Recordatore & Aldris civitatis pd p tempore existend vel coram aliquibus tribus vel pluribus eorum de omnibus Actionibus psonalibus quibuscunq; infra eandem civitatem emergend quoq; diu ante pdictum tempus quo supponitur fractionem & intrationem domus pd & captionem & asportationem pdict resid bonorum & catallorum pd superius fieri supponit scilt vicesimo secundo die Maij Anno Regni dicti Domini Regis nunc tricesimo quarto supradicto in predict Cur de Recordo dicti Domini Regis nunc civit pdict tent in Guihald civitatis pdict coram prefato Georgio Solley tunc Majore civitatis pdict & pfat Thoma Street Mil tunc Recordatore ejusdem civitat & pfat Jacobo Higgens Edro Soley Edmundo Pitt & al tunc Aldris civit pdict secundum consuetudinem civit pdict pdictus Johannes Alderne in propria persona sua vend Et adtunc & ibidem secundum consuetudinem Civitatis predicte levavit quandam querelam suam versus predictum Ricum Adney in Placito debiti quadraginta Librarum Et adtunc & ibidem in eadem Cur civitat predict secundum consuetudinem civitat pdict a tempore cujus contrarij memoria hominum non existit usitat & approbat invenisset pleg de ps querelam suam pdictam scilt Johem Doo Ricum Roo Et adtunc & ibm petiit pcess. Cur pdict vsus pfat Ricum Adney ad sectam ipsius Johis Alderne in loquela pdicta fiend secundum consuetudinem civitat pdict Et ei adtunc & ibidem concedebatur sup quo adtunc & ibm secundum consuetudinem civit predict a toto tempore supradicto usitat & approbat pcept fuit p eandm Cur dcd Dni Regis civit pdict Servien ad Clavam ejusdem qd attach seu &c. pdict Ricum Adney p corpus sive p bona vel catalla sus ita qd esset ad pr Cur dcd Dnd Regis civit pdict ad Guihald civit pdict coram pfat Majore Recordatore & Aldris civitat pdict tenend ad respondend eidem Johi Alderne de pdict Plito debi Idem dies tunc dat fuit eidem Ricardo Adney p eandem Cur ibm &c. Taliter in eadem Cur civit pdict in loquela pdict pcess. fuit qd postea & ante pdict tempus quo &c. scilt ad Cur dcd Dnd Regis de Recordo civit pdict apud Guihald pdict coram pfat Majore Recordatore & Aldris

As to the residue of the Goods, they plead a Recovery in the said Court for 40*l.* at the Suit of *J. A.* one of these Defendants, *ut supra.*

That *John Alderne* one of the Defendants levied a Plaint against the Plaintiff, and so pleads Recovery and Execution.

bris civitat pdict die Lune secundo die Octobris Anno Regni ejusd Dni Regis nunc tricesimo quarto tent p eandem Cur cons fuit qd pdict Johes Alderne recuparet versus pfat Ric Adney pdictum debit suum quadraginta Librar & dampna sua occone detentionis debiti illius ad tresdecim Solidos & sex denar eidem Johi Alderne ex assensu suo p eandem Cur adjudicat Super quo quidem Judicio Executus pd Adne in forma pd reddit predictus Johes Alderne postea & ante pdict tempus quo &c. scilt ad eandem Cur dicti Domini Regis de Recordo civitat pdict apud Guihald pdict coram pfat Majore Recordatore & Aldris civit pdict pdicto secundo die Octobris Anno tricesimo quarto supradicto petiit executionem versus predictum Ricum Adney p debo & dampnis pdict p quod & p eandem Cur adtunc & ibm precept fuit Servien ad clavam ejusdem civit seu &c. qd de bonis & catallis pdict Rici Adney infra civitatem pdict fieri fac tam pdict debm quadraginta Librarum quam predictos tresdecim Solidos & sex denar p dampnis pdict Et denar ill herent seu &c. ad px' Cur civit pdict apud Guihald civitat pdict coram pfat Majore Recordatore & Aldis civitat pdict tunc tenend ad reddend pfat Johi Alderne de debo & dampnis pdict quod quidem precept postea & ante pdict tempus quo &c. Et ante adtunc px' Cur civit predict scilt eodem secundo die Octobris Anno tricesimo quarto supradicto apud civit Wigorn pdict eidem Thome Winton tunc uni Servien ad clavam & Ministro Cur pdict existen delibat fuit in forma juris exequend virtute cujusdam precepti postea & ante px' Cur civit pdict scilt eodem secundo die Octobris anno tricesimo quarto supradicto apud civit Wigorn pdict & infra Jurisdictionem Cur predict idem Thomas Winton & pdict Riccus Vernon Ric Morris & Johes Alderne p precept ipsius Thome Winton & ejus auxilium simulcum pdicto Thoma Winton domum pdict in Narratione pdict mencoat ostio ejusdem domus adtunc apt existen ad pfat resid bonorum & catallorum pdictor pdicti Rici Adney ibm existen in executione p debo & dampnis pdict capiend & seiziand intraver Et pdict resid bonorum & catallorum pdictor ut bona & catalla pdict Rici Adney ppria in domo pdict invent in executione pro debo & dampnis pdictis ceper & asportaver put eis bene licuit que quidem intraco domus predicte & capco & asportaco pdict resid bonorum & catallor pdict ex causa pdict & in forma pdict fact sunt eadem fractio & intratio domus pdict & captio & asportatio pdict resid bonor & catallorum pdict unde pdict Ricus Adney superius se modo queritur Absq; hoc qd ipsi iidem Ric Vernon Thomas Winton Ric Morris & Johes Alderne sunt culpabiles de transgr pdict pdicto decimo die Julii anno tricesimo quinto supradicto vel ad aliquod tempus post pdict secundum diem Octobris anno tricesimo quarto supradicto modo & forma put pdictus Ricus Adney superius versus eos queritur Et hoc parat sunt verificare unde pet Judicium si pdict Ric Adney Actionem suam pdict quoad fractionem & intrationem domus pdict & captionem & asportationem pdict resid bonor & catallor pdict versus eos here debeat Et pdict Robtus Burt quoad venire vi & armis necnon tot transgr pdict superius fieri suppoit preter fractionem & intrationem domus pdict & captionem & asportationem pdict pecie panni lanei superius fieri suppoit idem Robtus Burt dic qd ipse in nullo est inde culpabilis Et de hoc pon se super patriam Et pdict Ric Adney inde simılit & quoad fractionem & intrationem domus pdict & captionem & asportationem predict pecie panni lanei superius fieri suppoit idem Robtus Burt dic qd pdictus Ric Adney actionem suam pdict inde versus eum here non debet quia dic qd civitas Wigorn est & a tempore cujus contrarii memoria hominum non existit fuit antiqua civitas hujus Regni Angl quodq; infra eandem civitatem hetur Et a toto tempore supradicto hebatur quedam Cur de Recordo dicti Dni Regis nunc & progenitor suor Regum & Reginar Anglie tent coram Balliis & Aldris civitatis pdict usq; secundum diem Octobris anno Regni Dni Jacobi nup Regis Angl decimo nono & Scoc quinquegesimo quinto Et postea coram Majore & Recordatore & Aldris civit pdicte p tempore existen vel coram aliquibus tribus vel pluribus

eorum

And the same Traverse.

Burt another of the Defendants pleads, *ut supra*.

corum de omnibus actionibus p̄sonalibus quibuscunq; infra eandem civit̄ emergen̄ quoq; diu ante predictum tempus quo supponitur fractionem & intrationem domus p̄dict̄ & captionem & asportationem p̄dict̄ pecie panni lanei superius fieri suppōit scilt septimo die Augusti Anno Regni dicti Dn̄i Regis nunc tricesimo quarto in p̄dict̄ Cur̄ de Recordo dicti Dn̄i Regis nunc civit̄ p̄dict̄ tent̄ in Guihald civit̄ coram Georgio Solley Armigero tunc Majore civit̄ p̄dict̄ & Thoma Street Mil̄ tunc Recordatore ejusdem civitat̄ & Jacobo Higgens Edr̄ Solley Edmundo Pitt & al̄ tunc Ald̄ris ejusdem civit̄ secundum consuetudinem civitat̄ illius p̄dict̄ Robertus Burt in p̄pria persona sua ven̄ & adtunc & ib̄m secundum consuetudinem civit̄ p̄dict̄ levavit quandam querelam suam v̄sus p̄dict̄ Ric̄ Adney in P̄lito debi decem Librarum Et adtunc & ill̄m in eadem Cur̄ civit̄ p̄dict̄ secundum consuetudinem civit̄ p̄dict̄ a tempore cujus contrarij memoria hominum non existit usitat̄ & approbat̄ invenisset pleḡ de p̄s querelam suam p̄dict̄ scilt Johem Doo & Ric̄um Roe Et adtunc & ibidem petiit p̄s Cur̄ p̄dict̄ v̄sus p̄fat̄ Ric̄um Adney ad sectam ipsius Roberti Burt in loquela p̄dict̄ sibi fiend̄ secundum consuetudinem civitat̄ p̄dict̄ Et ei adtunc & ib̄m concedebatur super quo adtunc & ibidem secundum consuetudinem civit̄ p̄dict̄ a toto tempore supradicto usitat̄ & app̄bat̄ p̄cept̄ fuit p̄ eandem Cur̄ dc̄i Dn̄i Regis civitat̄ p̄dict̄ Servien̄ ad Clavam ejusdem civitat̄ qd̄ attach̄ seu &c. p̄dict̄ Ricardum Adney p̄ corpus sive p̄ bona vel catalla sua ita qd̄ esset ad p̄x' Cur̄ dicti Domini Regis civit̄ p̄dict̄ apud Guihald civit̄ p̄dict̄ coram p̄fat̄ Majore Recordatore & Ald̄ris civit̄ p̄dict̄ tenend̄ ad respondend̄ eidem Robto de p̄d̄ P̄lito debi Idem dies dat̄ fuit eidem Ric̄ Adney p̄ eandem Cur̄ ib̄m &c. Talit̄ in eadem Cur̄ civit̄ p̄dict̄ in loquela p̄dict̄ p̄cess. fuit qd̄ postea & ante p̄dict̄ tempus quo &c. scilt ad Cur̄ dc̄i Dn̄i Regis de Recordo civit̄ p̄dict̄ apud Guihald p̄dict̄ coram p̄fat̄ Majore Recordatore & Ald̄ris civit̄ p̄dict̄ die Lune secundo die Octobris Anno Regni dicti Dn̄i Regis nunc tricesimo quarto supradicto tent̄ p̄ eandem Cur̄ considerat̄ fuit qd̄ p̄dict̄ Robtus Burt recuperasset v̄sus p̄fat̄ Ric̄um Adney p̄dict̄ deb̄m suum decem Librarum & dampn̄ sua occ̄one detentionis debi illius ad tresdecim Solidos & sex Denar̄ eidem Roberto Burt ex assensu suo p̄ eandem Cur̄ adjudicat̄ Super quo quidem Judicio v̄sus p̄dict̄ Ric̄um Adney in forma p̄dict̄ reddit̄ p̄dict̄ Robertus Burt postea & ante p̄dict̄ tempus quo &c. scilt ad eandem Cur̄ dc̄i Dom̄ Regis de Recordo civit̄ p̄dict̄ apud Guihald coram p̄fat̄ Majore Recordatore & Ald̄ris civit̄ p̄dict̄ secundo die Octobris Anno tricesimo quarto supradicto petiit Executionem v̄sus p̄dict̄ Ric̄ Adney p̄ debo & dampnis p̄dict̄ p̄ quod per eandem Cur̄ adtunc & ibidem p̄cept̄ fuit Servien̄ ad Clavam ejusdem civitat̄ seu &c. qd̄ de bonis & catallis p̄dict̄ Ric̄ Adney infra civit̄ p̄dictam fieri fac̄ tm̄ p̄dict̄ deb̄m decem Librarum q̄m p̄dictos tresdecim Solidos & sex denar̄ p̄ dampnis p̄dictis & Denar̄ ill̄ herent seu &c. ad p̄x' Cur̄ civit̄ p̄d̄ apud Guihald civit̄ p̄d̄ coram p̄fat̄ Majore Recordatore & Ald̄ris civitat̄ p̄d̄ tunc tenend̄ ad reddend̄ p̄fat̄ Roberto de debo & dampnis p̄d̄ quod quidem scriptum postea & ante p̄dict̄ tempus quo &c. Et ante adtunc p̄x' Cur' civit̄ p̄d̄ scilt eodem secundo die Octobris anno tricesimo quarto supradicto apud Civitat̄ Wigorn̄ p̄dictam Thome Winton tunc uni Servien̄ ad Clavam & Ministro Cur̄ p̄d̄ existen̄ delibat̄ fuit in forma juris exequend̄ virtute cujus quidem p̄cepti postea & ante p̄d̄ p̄x' Cur̄ civit̄ p̄d̄ scilt eodem secundo die Octobris Anno tricesimo quarto supradicto apud Civitatem Wigorn̄ p̄dictam ac infra Jurisdictionem Cur̄ p̄d̄ idem Thomas Winton & p̄d̄ Robertus Burt p̄ preceptum ipsius Thome Winton & in ejus auxilium simulcum p̄dict̄ Thoma Winton domum p̄dictam in Narratione p̄d̄ mentionat̄ ostio ejusdem domus adtunc apto existen̄ ad p̄d̄ peciam panni lanei p̄d̄ Ric̄ Adney ibidem existen̄ in executione p̄ debo & dampnis p̄d̄ capiend̄ & seiziend̄ intraver̄ & eandem peciam panni lanni lanei ut bona & catalla p̄d̄ Ric̄ Adney p̄p̄r' in domo p̄d̄ invent̄ in executione p̄ debo & dampnis p̄d̄ ceper̄ & asportaver̄ p̄ut eis bene licuit que quidem intratio domus p̄d̄ & captio & asportatio p̄dict̄ pecie

panni

panni lanei ex causa p̄dict & in & forma p̄dict fact sunt eadem fractio & intratio domus p̄dict & captio & asportatio p̄dict pecie panni lanei unde p̄dict Ric Adney supius se modo queritur absq; hoc qd ipse idem Robertus Burt est culpabilis de causis p̄dict p̄dicto decimo die Julij anno tr cesimo quinto supradicto vel ad aliquod tempus post p̄dict secundum diem Octobris Anno tricesimo quarto supradicto modo & forma put p̄dict Ricardus Adney superius inde v̄sus eum queritur Et hoc parat est verificare unde pet Judicium si p̄dict Ric Adney Actionem suam p̄d quoad fractionem & intrationem domus p̄d & captionem & asportationem p̄d pecie panni lanei v̄sus eum here debeat &c. And the same Traverse.

Et p̄red Ric Adney dic qd ipse p aliqua p p̄dictos Ricardum Vernon Thomam Winton Ric Morris Johem Alderne & Robtum Burt supius pl̄itando allegat ab actione sua p̄d inde versus eos hend p̄cludend non debet Quia qd predictum Pl̄itum predicti Ric Vernon Thome Winton Ric Morris & Johis Alderne quoad fractionem & intrationem domus p̄d & captionem & asportationem p̄d pecie panni in Narr p̄dict supius mencōnat Idem Ric Adney dic qd p̄dict Ricus Vernon Thomas Winton Ricus Morris & Johes Alderne die & anno p̄dictis in Narr supius specificat apud civit Wigorn p̄dict de injuria sua ppria Et absq; aliqua tali causa p ipsos supius pl̄itando allegat domum ipsius Ric Adney p̄dict freger & intraver & p̄dict peciam panni lanei adtunc & ibm invent ceper & asportaver modo & forma put idem Ricus Adney superius narrando allegavit Absq; hoc qd hetur tale record recuperationis debi & dampnorum p̄dictoꝝ v̄sus ipsum Ricardum Adney in p̄dict Cur Civit Wigorn p̄dict remanen quale p̄dict Ricus Vernon Thomas Winton Ric Morris & Johes Alderne superius allegaver Et hoc parat est verificare unde pet Judicium & dampna sua occōne fractionis & intrationis domus p̄dict & captionis & asportationis p̄dict pecie panni lanei in Narr p̄dict superius specificat v̄sus p̄fat Ric Vernon Thomam Winton Ricardum Morris & Johannem Alderne inde sibi adjudicari Et quoad p̄dict Pl̄itum p̄dict Ric Vernon Thome Winton Ric Morris & Johannis Alderne quoad fractionem & intrationem domus p̄dict & captionem & asportationem p̄dict resid bonoꝝ & catalloꝝ p̄dict in Narratione p̄dict superius simil mencōnat idem Ric Adney dic qd p̄dict Ricardus Vernon Thomas Winton Ricardus Morris & Johes Alderne p̄dict die & anno in Narr p̄dict superius specificat apud Civitat Wigorn p̄dict de injuria sua ppr & absq; aliqua tali causa p ipsos superius pl̄itando allegat domum ipsius Rici Adney freger & intraver & p̄dictoꝝ resid bonoꝝ & catalloꝝ p̄dict adtunc & ibm invent ceper & asportaver modo & forma put idem Ricus Adney superius narrando simil allegavit Absq; hoc qd hetur aliquod tle Recordum recuperationis debi & dampnoꝝ p̄dict versus ipsum Ric Adney in p̄dict Cur Civit Wigorn p̄dict remanen quale p̄dict Ricus Vernon Thomas Winton Ric Morris & Johannes Alderney superius allegaver Et hoc parat est verificare unde pet Judicium & dampna sua occōne fractionis & intrationis domus p̄dict & captionis & asportationis p̄dict resid bonorum & catallorum p̄dict in Narratione p̄d superius specificat inde sibi adjudicari Et quoad p̄dict Pl̄itum p̄dict Robti Burt quoad fractionem & intrationem domus p̄dict & captionem & asportationem p̄dict pecie panni lanei idem Ricus Adney dic qd ipse per aliqua preallegat ab Actione sua p̄dict hend p̄cludi non debet Quia dic qd p̄dict Robertus Burt die & anno p̄dict in Narratione p̄dict superius specificat apud Civitat Wigorn p̄dict de injuria sua ppr a absq; aliqua tli causa p ipsum superius pl̄itando allegat domum ipsius Rici Adney p̄dict fregit & intravit & p̄dict peciam panni lanei adtunc & ibidem invent cepit & asportavit modo & forma put idem Ricus Adney superius narrando allegavit Absq; hoc qd hetur aliquod tle record recuperationis debi & dampnoꝝ p̄dict in p̄dict Cur Civitat Wigorn p̄dict remanen quale p̄dict Robtus Burt superius allegavit Et hoc parat est verificare unde pet Judicium & dampna sua occōne

Replicat. *De injuria sua propria absq; tali causa*, and traverseth the Record,

Ill, for the double Traverse.

Simile.

Simile.

 fractis-

fractionis & intrationis domus pdict & captionis & asportationis pdict pecie panni lanei plus pfat Robertum inde sibi adjudicari &c.

Rejoynder, quo ... tale Record.

Et pdicti Richardus Wernon Thomas Winton Ricus Morris & Johannes Alderne quoad fractionem & intrationem domus pdict & captionem & asportationem pdict pecie panni lanei in Narratione pdict superius mentionat superius fieri supposit ut prius dic qd hetur tle record recuperationis debi & dampnor pdict versus pdict Ricardum Adney in pdict Cur Civit Wigorn pdict remanend quale ipse iidem Ricus Wernon Thomas Winton Ricardus Morris & Johes Alderne superius inde allegaver Et hoc parat sunt verificare p record illud Et quoad fractionem & intrationem domus pdict & captionem & asportationem pdict rerum bonor & catallorum pdict in Narr superius similit mentionat superius fieri supposit iidem Ric Thomas Ricus & Johes ut prius dic qd hetur tle record recuperationis debi & dampnor pdict versus pdict Ricum Adney in pdict Cur Civit Wigorn pdict remanend qual ipsi iidem Ricus Thomas Ricus & Johes superius inde allegaver Et hoc simil parat sunt verificare p record illud Et pdict Robtus Burt quoad fractionem & intrationem domus pdict & captionem & asportationem pdict pecie panni lanei in Narr pdict superius mentionat supius fieri supposit ut prius dic qd hetur tle record recupationis debi & dampnor pdict versus pdict Ricum Adney in pdict Cur Civit Wigorn pdict remanend quale ipse idem Ricus Burt supius inde allegavit Et hoc parat est verificare p record illud Id pdicti Ricardus Wernon Thomas Winton Ric Morris & Johannes Alderne heant record ill hic in Octabis Sci Hill sub suis piclis Idem dies dat est partibus pdict hic &c. Et quoad triand separ at exit inter partes pdict supius junct pcept est Vic qd venire fac hic ad pfat Octabas Sci Hillarij duodecim &c. p quos &c. Et qui nec &c. ad recogn &c. Quia &c.

Judgment *pro Quer.* Vide le Report.

Trin. 1 Jac. II. C. B. Rot. 1994.

Wightwick *versus* Hovenden.

Levinz Part III. fol. 245.

Sussex. ss. Thomas Hovenden nuper de Winchelsea in Com pd Yeom & Willus Smith nup de W. in Com pdict Yeom attach fuer ad respond Humfrido Wightwick de Plito quare ipsi simulcum Willo Headborough nuper de W. in Com pdict Yeom Johanne Sampson nup de W. in Com pdict Yeom Rico Peckham nup de W. in Com pred Yeom Georgio Bigg nup de W. in Com pred Yeom & Johanne Arnold nuper de W. in Com predict Yeoman vi & armis Clm ipsius Humfridi apud Bromhill als Promhill freger ac herbam suam ad valenc quadraginta Solidorum ibidem nuper crescentem pedibus suis ambulando conculcaver & consumpser ac averia ipsius Humfridi ibidem nup invent absq causa ronabili cepe & imparcaver Et ea ibm sic impcat diu & quousq idm Humfridus separ fines p viginti & duas Libras & decem Solid ac viginti & quinq Libr ac septuaginta & duas Libras & decem Solid p delibatione averior pdictorum hend cum pfat Thoma Willo Willo Johe Rico Georgio

Trespass *vi & armis quare Clausum fregit* &c. *& averioru' imparcatione sine causa*, and detaining them till the Plaintiff paid 22 *l.* 10 *s.* &c.

gio & Johe fecisset detinuer & alia enormia ei intuler ad grave dampnum ipsius Humfridi & contra pacem Dni Caroli secundi nuper Regis Anglie &c. Et unde idem Humfridus per Johannem Wade Attorn suum queritur qd pdict Thomas Hovenden & Willus Smith simulcum &c. tricesimo primo die Martii Anno Regni Dni Caroli secundi nup Regis Anglie vicesimo septimo vi & armis &c. Clum ipsius Humfridi voc Sir George Curtis's Land apud B. freger ac herbam suam ad valenc &c. adtunc & ibm crescen pedibus suis ambulando conculcaver & consumpser ac averia videlt ducent Vervices Anglice Weather-Sheep & centum Oves matrices ipsius Humfridi adtunc & ibm invent absq causa rônabili ceper & imparcaver Et ea ibm sic imparcat diu scilt p spatium duorum dierum tunc pr' sequen & quousq idem Humfridus finem viginti & duas Libras & decem Solidos p deliberatione dictorum averiorum hend cum pfat Willo Willo Headborough Johe Sampson Rico Georgio Bigg & Johanne Arnold fecisset detinuer Aceciam qd pdict Thomas Hovenden & Willus Smith simulcum &c. sexto decimo die Novembris Anno Regni dcti nuper Regis Caroli secundi vicesimo septimo supradicto vi & armis Clausum ipsius Humfridi pdict superius nominat apud B. pdict freger ac averia videlt centum Vervices Anglice Weather Sheep & centum Oves matrices ipsius Humfridi adtunc & ibidem invent absq causa rationabili ceper & impcaver Et ea ibidem sic imparcat diu scilt p spacium duorum dierum tunc pror. sequen & quousq idem Humfridus finem p viginti & quinq libras pro deliberatione averior illor habend cum pfat Thoma Willo Willo Headborough Johe Sampson Rico Georgio Brigg & Johe Arnold fecisset detinuer Aceciam qd pdict Thomas Hovenden & Willus Smith simulcum &c. vicesimo octavo die Januarii anno Regni dcti nuper Regis Caroli scdi vicesimo septimo supradicto vi & armis &c. Clm ipsius Humfridi pdict superius nominat apud B. pred freger ac averia videlt centum viginti & quinq Vervices Anglice Weather-Sheep ipsius Humfridi adtunc & ibidem invent absq causa rationabile ceper & impcaver Et ea ibm sic imparcat diu scilt per spacium duor dier tunc pror. sequen & quousq idem Humfridus finem per septuaginta & duas libras & decem solid pro deliberatione eordem averiorum habend cum pfat Thoma W. W. H. J. S. R. G. B. & J. A. fecisset detinuer Et al enormia &c. Ad grave dampnum &c. Et contra pacem &c. Unde dic qd deteriorat est ad dampnum habet ad valenc ducentar librarum Et inde pduc sectam &c.

Et pdict Thomas Hovenden & Willus Smith per Carolum Draper Attornatum suum ven & defend vim & injuriam quando &c. Et dic qd pred Humfridus actionem suam pdict inde versus eos habere non debet Quia dic qd causa actionis pdict non accrevit pfat Humfrido ad aliquod tempus infra sex annos pror. ante diem impetrationis brevis originalis ipsius Humfridi Et hoc parat sunt verificare unde pet Judicium si pdcus Humfridus actionem suam pdict inde versus eos habere debeat &c. *The Defendant pleads the Statute of Limitations.*

Et pdcus Humfridus dic qd ipse per aliqua pallegat ab actione sua pdict habend pcludi non debet quia dic qd post transgr pred in narr pdict superius spec sic ut pfertur fcam scilt vicesimo primo die Maii anno Regni dicti Domini Caroli secundi nup Regis Anglie &c. tricesimo secundo idm Humfridus impetravit & psecut fuit extra Cur Canc ejusdem nuper Regis (eade Cur Canc apud Westm in Com Midd existen) quoddam breve originale ipsius nuper Regis versus pfat Thomam Willum Smith Willum Headborough Johem Sampson Ricum Georgium & Johem Arnold de plito transgr & insult tunc Vic London direct retornabil & retornat coram Justic ejusdem nuper Regis apud Westm in Crastino Sce Trinitatis tunc pror' sequen Pdictiq Thomas W. S. W. H. J. S. Ricus Georgius & J. A. p eo qd ipsi non ven in pdict Cur dcti nuper Regis de Banco hic scilt apud Westm pdict *The Plaintiff replies.* *By original sued out.*

pdict pfat Humfrido inde responsur scdum legem & consuetudinem hujus Regni Anglie in exigend possit fuer ad utlagand in London pred Et ea

And Outlawry in *London.*

occasione postea scilt die Lune prox' post Festum Pur beate Marie Virginis anno Regni dcd nuper Regis Caroli secundi tricesimo tertio in London pred ad sect ipsius Humfridi utlagat fuer dictusq; Willus Smith extunc usq; Terminum Scd Michaelis jam ult pterit sic utlagat remansit quo quidem

That the Defendant stood outlawed till it was reversed within the year.

Termino utlagaria illa quoad ipm Willum Smith reversat fuit put per record & proces inde in Cur Dnd Regis nunc de Banco hic residen plenius apparet Quod quidem breve originale in London ut pfertur impetrat & locat ac dictus pcessus ad utlagariam superinde in forma pred psecut & hit idem Humfridus sic impetravit & psecut fuit ea intentione qd ipse scdum usum & consuetudinem ejusdem Curie de Banco hic narraret versus pfat Thomam W. S. W. H. J. S. Ricum Georgium & Johem Arnold vel eorum aliquem seu aliquos utlagariam illam revocand aut in eadm Cur hic compen in actione transgr p transgr pred ut pfertur fca in Com Sussex' locand Idemq; Humfridus super compencia dcd Willi Smith ac pfat Thome Hovenden (qui quidm Thomas utlagariam pred versus eum similiter reversari fecit) in Cur hic fca ac infra unm annum prox. post dcam utlagariam per pdict Willielmum Smith ut pfertur reversat versus eos in forma pdict narravit Et

And then the Plaintiff declared.

idem Humfridus ulterius dic qd causa actionis sue pred accrevit eidem Humfrido infra sex annos prox' ante pred diem impetraconis primi brevis sui originalis pred super quo utlagaria pred in forma pred hit fuit scilt diebus pdcis in narr pred superius spec In quo casu eo qd idm Humfridus istam actionem infra dcm unm annum de novo impetravit & commensavit juxta formam Statuti in humodi casu pvis idem Humfridus per formam Statuti illius ab actione sua predicta habend non est pcludend Et hoc parat est verificare unde pet Judicium & dampna sua occasione transgr pred sibi adjudicari &c.

The Defendant demands *Oyer* of the original.

Et pdict Thomas Hovenden & Willus Smith pet auditum pred brevis originalis super quo utlagaria pred in forma pred hit fuit Et eis legitur in hec verba Carolus secundus Dei gratia Angl Scoc Franc & Hibernie Rex fidei Defensor &c. Vic London salutem si Humfridus Wightwick Gen fecerit vos secur de clam suo pros tunc pon p vados & salvos pleg Thomam Hovenden nuper de Winchelsea in Com Sussex Yeoman Willum Smith nuper de W. in Com S. Yeoman Willum Headborough de W. in Com S. Yeoman Johem Sampson nuper de W. in Com S. Yeoman Ricum Peckham nuper de W. in Com S. Yeoman Georgium Bigg nup de W. in Com S. Yeoman & Johem Arnold nuper de W. in Com S. Yeoman qd sint coram Justic nostris ad Westm in Crastino Scd Trinitatis ostens quare vi & armis in ipm Humfridum apud London insult fecer Et ipsum verberaver vulneraver & maletractaver ita qd de vita ejus desperabatur Et alia enormia ei intuler ad grave dampnum ipsius Humfridi Et contra pacem nostram Et habeatis ibi nomina pleg Et hoc breve Teste meipso apud Westm vicesimo primo die Maii anno Regni nostri tricesimo secundo Shelbery. Quo lecto & audito iidem Thomas Hovenden & Willus Smith

And demurs specially.

dic qd pred placitum pred Humfridi superius replicando placitat minus sufficien in lege existit ad ipm Humfridum actionem suam pred inde versus ipsos Tomam & Willum habend manutenend quodq; ipi ad plitum illud modo & forma pred plitat necesse non habent nec per legem terre tenentur respondere Et hoc parat sunt verificare unde p defectu sufficien pliti in hac parte iidem Thomas & Willus pet Judicium Et qd pred Humfridus

Causes of Demurrer.

ab actione sua pred inde versus eos habend pcludatur &c. Et p causa morationis in lege iidem Thomas & Willus juxta formam Statuti in hujus-

1. Because it is not shewed when the first original was sued out.

modi casu edit & provis ostend & Cur hic demonstrant has causas subsequen eo qd non constat in plito illo quo die bre original super quo modo narratur impetrat fuit nec quo die utlagaria pred versus pdict Thomam Hovenden

venden fuit reversat an infra spacium unius anni ante impetracon brevis originalis ult mentionat vel non Nõc; plitum illud est incertum vitiosum & defectivd & caret forma &c. 2. Nor when the Outlawry was reversed.

Et pdcus Humfridus ex quo ipse sufficiend materiam in lege ad ipsum Humfridum actionē suam pd versus pd Thomam & Willum habend manutenend superius replicando plitavit quam ipse parat est verificare quam quidem materiam pdict Thomas & Willus non dedic nec ad eam aliqualit respond sed verificacon ill admittere omnino recusant idem Humfridus ut prius pet Judicium & dampna sua occasione transgr illius sibi adjudicari &c. Joynder in Demurrer.

Judicium pro Quer.

Hill. 5 W. & M. Rot. 302.

Coke.

Patrick versus Johnson & al'.

Leviniz Part III. Fol. 403.

Suff. ss. WIllmus Johnson nuper de Bury Scd Edmd in Com pred Bricklayer Willus Patrick nuper de Bury Scd Edmd in Com pred Gen Johes Pannel nuper de Bury Scd Edmd in Com pred Yeoman & Simon Whitehead nuper de Bury Scd Edmd in Com pred Yeoman attach fuer ad respondend Rico Patrick de plito quare ipi simulcum Samuel Fisher nuper de Bury Scd Edmd in Com pred Gen vi & armis &c. in ipm Ricum apud Melford in Com pred insult fecer Et ipm verberaver vulneraver maletractaver ceper & imprisonaver & ipsum in prisona contra legem & consuetudinem Regni Dnd Regis & Dne Regine nunc diu detinuer & detineri procuraver & causaver Ita qd de vita ejus maxime desparabatur Et alia enormia ei intulet ad grave dampnum ipsius Rici Et contra pacem Dñorum Regis & Regine nunc &c. Et unde idem Ricus p Carolum Turner Attornatum suum queritur qd pdict Willus Johnson Willus Patrick Johes Pannel & Simon simulcum &c. decimo septimo die Aprilis anno Regni Dnd Regis & Dne Regine nunc quarto vi & armis videlt gladiis bacculis & cultellis in ipm Ricm apud Melford in Com pd insult fecer Et ipm verberaver vulneraver maletractaver ceper & imprisonaver & ipm ibm in prisona sine aliqua causa rationabili vel aliquo legali warranto aut aliqua justa sive legitima causa ac contra voluntatē ipsius Richardi & contra legem & consuetudinem hujus Regni Anglie diu videlicet per spacium unius anni tunc prox. sequend detinuer & detineri pcuraver & causaver ita qd de vita ejus maxime desparabatur Et alia enormia &c. Ad grave dampnum &c. Et contra pacem &c. Unde dic qd deteriorat est Et dampnum habet ad valentiam ducentarum librarum Et inde produc sectam &c.

3 Cro. 404. 36 Car. 2. B.C. Rot. 825. Adney & Vernon. Co. Entr. 644. Hill. 24 & 25 Car. 2. B. R. Intrat. Trin. vel Pasch. Doe & Parnister. Keb. 353. 1 Rol. Rep. 176. Trespass of Assault, &c. and false Imprisonment.

Et pdictus Willus Johnson per Samuelem Fisher Attornatū suum ven & defend vim & injur quando &c. Et quoad venire vi & armis necnon vulnerationem pred fieri supponit idem Willus Johnson dic qd ipse in nullo est inde culpabilis Et de hoc pon se super patriam Et pdcus Ricus similiter Et quoad pdict resid transgr insult imprisonament & detention pred Not guilty to part.

superius

As to the Imprisonment the Defendant justifies.

superius fieri supponit ide Willus Johnson dic qd pd Ricus actionem suam pdict inde versus eum habere non debet Quia dic qd Burgus de Bury Sci Edmi in Com pdict est & a tempore cujus contrarii memoria hominum non existit fuit antiquus Burgus qdq; pdcus Ricus octavo die Novembris anno Regni Dni Jacobi secundi nuper Regis Anglie &c. tertio apud Bury Sci Edmi pdict ac infra Jurisdictionem Cur de Recordo ejusdem Burgi hic postea mentionat p scriptum suum obligator concessit se teneri eidem Willielmo Johnson in viginti libris solvend eidem Willo Johnson cum inde requisit fuisset Que quidem viginti libr fuer verum & justum debitum ipsius Ricd & eidem Willo Johnson ante pdcum tempus quo &c. necnon eodem tempore quo &c. debit & insolut fuer videlt apud Bury Sci Edmi pdict infra Jurisdictionem Cur de Recordo Burgi illius p quod idem Willus Johnson p recuperatione pdict vigint libr postea & ante pdict tempus quo &c. scilt octavo die Novembris anno Regni dci nuper Regis Jacobi scdi quarto ad Cur ejusdem nuper Regis de Recordo adtunc tent ad & p Burgo illo in Guihald ejusdem Burgi ac infra Jurisdictionem Cur coram Martino Spensly Armig tunc Aldro Burgi pdict ac Thoma Macre & Robto Sharp Gen tunc capital Burgensib; Burgi ill juxta libertat & privileg ejusdem Burgi virtute Literar Paten Dni Jacobi primi nuper Regis Anglie &c. sub magno sigillo suo Angl sigillat & gerend dat apud Westm in Com Midd tertio die Aprilis anno Regni sui quarto Aldro Recordatori & Burgensib; Burgi pdict conces & confirmat implitavit ipm Ricum in plito debiti super demand pred vigint libr Et adtunc & ibidem invend pleg de ps sectam suam pdict Et superinde in eadem Curia taliter process fuit in plito pdict qd postea scilt decimo septimo die Octobris anno Regni dictor Dni Regis & Dne Regine nunc primo ad Cur de Recordo eor dem Regis & Regine adtunc tent ad & p Burgo pdict in Guihald ejusdem Burgi ac infra Jurisdictionem Curie illius coram pfat Thoma Macre tunc Aldro Burgi pdict ac Josepho Weld Armig tunc Recordatore ejusdem Burgi ac pdict Roberto Sharp & Martino Spensly duobus Capitalib; Burgensib; Burgi ill virtute Literar Paten pdict ibidem tent idem Willus Johnson p consideracoem ejusdem Curie recuperaverit versus pfat Ricum tam pdict debitum vigint libr quam centum solid qui eidem Willo Johnson in eadem Curia adtunc & ibidem adjudicat fuer pro dampn suis que habuit occasione detentionis debiti illius unde convict prout per Record & process inde in Cur Burgi illius apud Guihald ejusdem Burgi resident plenius liquet & apparet Quod quidem Judicium adhuc in suis plenis robore & effect reman minime reversat adnullat sive satisfact ac super Judicium illud postea & ante pred tempus quo &c. scilt ad Cur de Record pd tent coram Samuele Grove Gen tunc Aldro Burgi pdict & pfat tunc Capitalib; Burgesib; Burgi illius apud Guihald pdict infra Jurisdictionem ejusdem Curie decimo quarto die Aprilis anno Regni Regis & Regine nunc quarto supradicto virtute Literar Paten pdict emanavit extra Curiam ill ad prosecucon pdict Willi Johnson quoddam pceptum ejusdem Curie pfat Johanni Pannel Simoni Whitehead & cuidam Willo Smith tunc servien ad Clavam ac Ministris ejusdem Curie direct p quod quidem pcept eis & culibet eor conjunctim & divisim p eandem Curiam pcept fuit qd capent seu unus eor capet pdict Ricum si invent foret in Burgo pred Ita qd haberent corpus ejus adtunc pror. Cur de Record ibm tenend scilt vicesimo primo die tunc instan Aprilis ad satisfaciend pdict Willo Johnson de debito & dampnis pred sic ut pfertur recuperat quod quidem pcept postea & ante retorn ejusdem necnon ante pdict tempus quo &c. scilt decimo sexto die Aprilis anno quarto supradicto apud Burgum pdict ac infra Jurisdictionem Curie pdce deliberat fuit per pdict Willum Johnson pdict Johi Pannel & Simoni Whitehead tunc servien ad Clavam Burgi pdict ac Ministr Cur pred existen in forma juris exequend virtute cujus quidem pcepti iidem Johannes Samuel & Simo ad requisition ipsius Willi eisdem Johi & Simoni ibm fact apud Burgum pdict

By Recovery on Bond in the Court of *Edmundsbury.*

And *Capias ad satisfaciend'.*

p̄dict ac infrà Jurisdictionem Cur' p̄dict postea & ante retorn̄ p̄cept p̄dict scilt eodem decimo sexto die Aprilis anno quarto supradicto manus suas sup eundem Ric̄um molliter imposuer' ad ipm̄ ex causa p̄dict arrestand ac ipm̄ Ric̄um adtunc & ibidem ex causa illa ad sectam ipsius Willi de pred plito & ad requisitionem ipsius Willi Johnson ceperunt arrestaver' & imprisonaver' & ea de causa in prisona ibidem scilt in communi gaola ejusdem Burgi sub custod p̄dict Samuelis Grove Ald̄ri ejusdem Burgi posuer' & deliberaver' in executione pro debito & dampnis p̄dict Et abinde p pred tempus in narratione p̄dict superius mentionat p̄dict tunc Ald̄rus Burgi p̄dict p̄fat Ric̄um in executione pro debito & dampnis pred detinuit put ei bene licuit que quidem mollis impositio manuum ac arrest' & imprisonament pred ad psecution̄ & requisition̄ ipsius Willi Johnson ut p̄fertur fact sunt idem resid transgr' imprisonament & detention̄ p̄dict unde p̄dict Ric̄us superius versus eundem Willum Johnson queritur Absq; hoc qd idem Willus Johnson est culpabilis de captione arrestac̄on̄ imprisonament & detention̄ p̄dict apud Melford pred seu alibi extra Burgum p̄dict & Jurisdictionem ejusdem Curie seu aliter alio modo quam ut supradict est Et hoc parat est verificare unde pet Judicium si pred Ric̄us actionem suam pred inde versus eum habere debeat &c. Et p̄dcus Ric̄us Patrick pet auditum p̄cepti de Capias ad satisfaciend in plito ipsius Willi Johnson mentionat & spec' Et ei legitur in hec verba Gulielmus & Maria Dei gratia Angl Scoc' Franc' & Hibernie Rex & Regina fidei defensores &c. Johi Pannel Simoni Whithead Willo Smith Servien̄ ad clavam ac Ministr' Cur' de Record Burgi nostri de Bury Scī Edm̄ in Com̄ nostro Suff. salutem vobis & cuilibet vrm̄ conjunctim & divisim p̄cipimus qd capiatis seu unus vrm̄ capiat Ric̄um Patrick si invent fuerit in Burgo pred Ita qd habeat corpus ejus coram Ald̄ro Recordatore & Capital Burgensibus Burgi pred ad Cur' de Recordo p Burgo pred apud Guihald ejusdem Burgi die Jovis vicesimo primo die Aprilis instan̄ ad satisfaciend Willo Johnson tam de quodam debito vigint libr' que eidem Willo in Cur' pred coram Ald̄ro Recordatore & Capital Burgensibus Burgi p̄dict apud Guihald ejusdem Burgi recuperavit versus eum quam de centum solid qui eidem Willo in eadem Curia adjudicat fuer' pro dampnis suis que huit occasione detentionis debiti illius unde convict est Et habeas ibi hoc p̄cept Teste Samuele Grove Gen̄ Ald̄ro Burgi p̄dict decimo quarto die Aprilis anno Regni nr̄i quarto Quo lecto & audito idem Ric̄us Patrick quoad pred plitum pred Willi Johnson quoad resid tnsgr' insult imprisonament & detenc̄on̄ pred ut p̄fertur superius p p̄dcum̄ Willielmum Johnson in barr' plicat dic' qd ipse p aliqua p p̄dict Willielmum Johnson superius inde placitando allegat ab actione sua p̄dicta inde versus eundem Willielmum Johnson habend p̄cludi non debeat Quia dic' qd ad aliquod tempus post pred decimum septimum diem Octobris anno Regni Dn̄i Willi & Marie nunc Regis & Regine Angl &c. primo quo die Judic' in plito ipsius Willi Johnson recitat & mentionat reddit fuit versus p̄fat Ric̄um Patrick & ante p̄dict decimum quartum diem Aprilis anno Regni dictor Dn̄i Regis & Dn̄e Regine nunc quarto supradicto quo die p̄cept de Capias ad satisfaciend in plito p̄dict Willi Johnson mentionat & recitat emanavit nullum Judicium super aliquod p̄cept de Scire Fac' eman̄ extra nuat pred Cur' Burgi pred de & sup Judic' p̄dict reddit fuit nec unquam fuit aliquod al p̄cept mandat sive process de & sup Judicio pred psecut sive contiversus p̄dict Ricum̄ Patrick extra vel per eandem Curiam Burgi p̄dict inter pred decimum septimum diem Octobris anno primo supradicto & p̄dict decimum quartum diem Aprilis anno quarto supradicto Et hoc parat est verificare unde ex quo p̄dict Willus Johnson resid transgr' insult imprisonament & detencon̄ p̄dict per p̄fat Willum Johnson ut p̄fertur fieri cogn̄ idem Ric̄us Patrick pet Judicium & dampna sua predversus p̄fat Willum Johnson occasione inde sibi adjudicari &c.

And traverse that he is guilty *alibi extra seu aliter vel alio modo.*

The Plaintiff demands Oye of the *Ca. Sa.*

And pleads that there was no *Scire Fac.* issued out upon the Judgment in three years space.

Et

Demurrer.

Et predictus Willus Johnson dic qd predict plitum predict Ricardi Patrick quoad resid transgr insult imprisonament & detencon predict ut pfertur superius replicando plitat minus sufficiens in lege existit ad pred Ricum actionem suam predict versus eundem Willelmum Johnson habend manutenend Idcirco ipse ad plitum illud modo & forma pred replicando plitat necesse non habet nec per legem terre tenetur respondere Et hoc parat est verificare unde pro defectu sufficien replicationis ipsius Rici in hac parte idem Willielmus Johnson pet Judicium Et predcus Ricus ab actione sua predict quoad resid transgr insult imprisonament & detencon predict ut pfertur versus eum habend precludatur &c.

Joynder in Demurrer.

Et predcus Ricus ex quo ipse sufficien materiam in lege ad actionem suam pred quoad pred resid transgr insult imprisonament & detencon predict ut pfertur versus pfat Willum Johnson habend manutenend superius replicando allegat quam ipse parat est verificare quam quidem materiam predict Willus Johnson non dedic nec ad eam aliqualiter respond sed verification ill admittere omnino recusat ut prius pet Judicium & dampna sua occasione predict resid transgr insult imprisonament & detencon predict ut pfertur sibi adjudicari &c.

The Officers plead *nihil* in Barr of the Action.

Et predcus Willus Patrick Johes Pannel & Simon Whithead p Johannem Wright Attornatum suum ven & defend vim & injuriam quando &c. Et nichil in barram actionis pred Ric Patrick pred inde dic p quod idem Ricus Patrick reman inde versus pfat Willum Patrick Johem Pannel & Simon Whithead inde indefens Ob quod idem Ricus Patrick dampna sua occasione inde versus pfat Willum Pattick Johem Pannel & Simonem Whithead recuperare debent &c. Set quia nescitur an predcus Willielmus Johnson convincatur de & sup materia in lege unde ipse idem Willielmus Johnson & predict Ricus Patrick superius in Judicium Cur hic se posuer necne Et quia nescitur etiam an idem Willus de & super materia in exit ponit int pfat Ricum Patrick & pd Willum Johnson p patriam triand scilt convincatur necne Et si convincatur convenien & necesse est qd unacum fiat assessament dampnor tam versus pfat Willum Johnson quam versus pfat Willum Patrick Johem Pannel & Simon Whithead p tnsgr insult & imprisonament in narratione pred superius spec Id tam quoad triand exit predict inter pfat Ricum Patrick & predict Willum Johnson superius in forma predict ut pfertur junct per patriam triand quam ad inquirend de dampnis predict versus pfat Willum Patrick Johem Pannel & Simon Whithead cesset inde pcess quousq pred materia in lege unde pred Ricus Patrick & pfat Willus Johnson superius in Judicium Curie hic se posuer legitimo modo terminetur Et quia Justic hic se advisare volunt de & super materia in lege unde pred Ricus Patrick & pfat Willus Johnson in Judicium Curie hic superius se posuer priusquam Judicium inde reddant dies inde dat est pfat Rico Patrick & pred Willielmo Johnson hic usq in de audiendo inde Judicio suo Eo qd iidem Justic hic inde nondum &c.

But *per Cur.* Process to cease against them till the matter in Law be tryed.

The Plaintiff discontinued. *Vide le Report.*

Hill.

Hill. 8 W. III. Rot. 321.

Winsford.

Lagden versus Hills & al'.

Essex ss. Thomas Hills nuper de Walden in Com' p'd' Malster & Margareta uxor ejus & Johes Hills nuper de Walden p'd' in Com' p'dict' Yeoman attach' fuer' ad respondend' Robto Lagden junior' de plito quare vi & armis averia ipsius Robti apud Walden p'dict' nuper invent' ceper' & fugaver' Et alia enormia ei intuler' ad grave dampnum ipsius Robti Et contra pacem Dni Regis nunc &c. Et unde idem Robtus p Josephum Sparrow Attornatum suum queritur qd p'dict' Thomas Margareta & Johes decimo sexto die Novembris anno Regni Dni Regis nunc Angl' &c. septimo vi & armis &c. centum oves ipsius Roberti apud Walden p'd' nuper invent' ceper' & fugaver' Et alia enormia &c. ad grave dampnum &c. Et contra pacem &c. unde dic' qd deteriorat' est Et dampn' habet ad valentiam decem librarum Et inde p'duc' sectam &c.

Trespass for taking and driving Cattel.

Et p'dict' Thomas & Margareta ac Johes per Georgium Wine Attornatum suum ven' & defend' vim & injuriam quando &c. Et quoad venire vi & armis dic' qd ip'i in nullo sunt inde culpabiles Et de hoc pon' se super patriam Et p'cus Robtus inde similiter Et quoad resid' transgr' p'dict' superius fieri supponit' iidem Thomas & Margareta & Johes dic' qd p'cus Robertus actionem suam p'dcam inde versus eos habere non debet Quia dic' qd quidam Ricus Hills Clicus diu ante p'dict' tempus quo &c. seisit' fuit de & in uno clauso terre cum ptin' vocat' Nine Acres in Walden p'dict' in dominico suo ut de feodo Et sic inde seisit' existen' idem Ricus Hills ante p'dict' tempus quo &c. scil't primo die Decembris anno Domini 1692 apud Walden p'dict' dimisit clausum ill' cum ptin' eidem Thome habend' & occupand' ei & assign' suis a Festo die Scti Michis Archi tunc pr. sequen' pro & durant' & usq plenar' finem & terminum viginti & unius annor' extunc pror. sequen' & plenarie complend' & finiend' virtute cujus dimissionis idem Thomas postea & ante p'd' tempus quo &c. in clausum ill' intravit & fuit & adhuc est inde possessionat' Et quia oves ill' p'dict' tempore quo &c. fuer' in clauso ill' herbam in eodem adtunc crescen' depascen' & conculcan' Et dampn' in eodem facien' idem Thomas in jure suo proprio Et p'dict' Margareta & Johes ut servien' ipsius Thome ac p ejus p'cept' dict' tempore quo &c. oves ill' dampn' ibm sic facien' ceper' & leniter e clauso ill' fugaver' put eis bene licuit Que quidem captio & fugatio eorundem ovium unde p'cus Robertus superius se modo queritur Et hoc parat' sunt verificare unde pet' Judicium si p'cus Robertus actionem suam p'dictam inde versus eos habere debeat &c.

Justification for damage feasant.

Et p'dictus Robertus dic' qd ipse p aliqua p'allegata ab actione sua p'dicta versus p'dict' Thomam & Margaretam & Johem p'cludi non debet quia dic' qd Jacobus Comes Suff. diu ante p'dictum tempus transgr' p'dict' fcr' fuit seisit' de manerio de Walden al's Chiping Walden in Com' Essex' p'dict' in dominico suo ut de feodo Idemq Comes & omnes ill' quor' statum ipse huit de & in manerio p'd' cum ptin' a tempore cujus contrarii memoria hominum non existit habuer' & habere consuever' p se firmariis & tenentibus suis inde quendam cursum ovium vocat' Audly end Sheep walk existen' communiam pasture pro ovibus suis non exceden' numerum ducentarum & quinquaginta ovium in p'dict' clauso vocat' Nine Acres in plito p'dict' superius specificat'

Replication.

That the Earl of *Suffolk* was seised of the Mannor of *Walden* in Fee.

And prescribes for him his Farmers and Tenants a Sheep walk or Common for Sheep not exceeding 250 in the Premisses every year when the said Close was sown from Harvest until resown, and when it lay fallow during all the year. The Earl conveys by Lease and Release the Mannor to the use of himself and his Countess for their Lives Remainder to the said Earl and his Heirs.

specificat inter alias terras in Walden pdict tanquam ad manerium pdict cum ptin ptinen in forma sequen videlt quolibet anno quo dcm clausum cum granis seminat fuit a tempore messis & asportationis bladorꝝ in eodem clauso in anno illo crescen donec idem clausum cum granis reseminat fuit & quando clausum ill jacuit ad wareck Anglice fallow tunc omni tempore quo idem clausum sic jacuit ad wareck Predictoqꝫ Comite de Manerio pdict cum ptin sic ut pfertur seisit existen idem Comes postea scilt nono die Junii anno Regni Dnī Caroli secundi nuper Regis Angl &c. tricesimo quarto apud Walden pdict p quandam Indenturam inter ipsum Comitem ex una parte & Robertum Comitem Mancestrie Carolum Dnm Mandovile & Edrm Mountague Armigerum ex altera pte fcam unam partem cujus quidem Indenture sigillo pdict Comitis Suff. signat idem Robertus Lagden hic in Cur pfert cujus dat est die & anno ult specificat p & in consideratione decem solidorum legalis monete Angl eidem Comiti Suff. in manibus solut ante sigillaconem & delibaconem inde p pdict Comitem Mancestrie Carolum Dnm Mandevile & Edrm Mountague bargainazavit & vendidit predict Comiti Mancestrie Carolo Domino Mandevile & Edro Montague manerium pdict cum ptin (inter alia) habend & tenend dict Comiti Mancestrie Carolo Domino Mandevile & Edwardo Montague Executoribus Administratoribus & Assignatis suis a die ante dat Indenture predict pro termino unius anni integri extunc prox. sequen & plenarie complend & finiend virtute quarum quidem barganie & vendiconis ac vigore Statuti de usibus in possessioem transferend edit & pvis dict Comes Mancestrie Carolus Dnus Mandevile & Edrus Mountague possessionat fuer de manerio pdict cum ptin Ipsisqꝫ sic inde possessionat existen ac pdict Comite Suff. de reversione inde in dominico suo ut de feodo seisit existen idem Comes Suff. postea scilicet decimo die Junii anno tricesimo quarto supradicto apud Walden pdict p quandam aliam Indenturam inter ipm Comitem Suff. ex prima parte dictos Comitem Mancestrie Carolum Dnm Mandevile & Edrm ex secunda parte Et Dnam Annam Mountague ex tertia parte fcam cujus unam partem sigillo pdict Comitis Suff. signat idem Robtus Lagden hic in Cur pfert cujus dat est eisdem die & anno in eadem Indentura recitan qd cum maritagium tunc intens fuit habend & solempnizand inter pdcm Comitem Suff. & dictam Dnam Annam Mountague dcus Comes Suff. p & in consideratione summe sex mille librarum legalis monete Anglie eidem Comiti Suff. in manibus solut p dcm Comitem Mancestrie receptionem cujus dcus Comes Suff. per eandem Indenturam cognovit p stabilacone Juncture pdict Anne p termino vite sue in casu maritagium pdict effcm caperet in loco & barra dotis sue ad communem legem relaxavit & quiete clamavit dcis Comiti Mancestrie Carolo & Edro hered & assign suis in perpetuum ad usum dictorum Comitis Suff. & Anne pro termino vitarum suarum naturalium si maritagium pdcm caperet effcm & vita eorum diutius viven pro junctura ipsius Anne & in satisfactione dotis sue ac post decessum ipsius Anne ad usum dcd Comitis Suff. hered & assign suorum Et idem Robertus dic qd maritagium pdict postea scilt eodem decimo die Junii anno tricesimo quarto supradicto apud Walden pdict cepit effectum Ac debita juris forma habit & solempnizat fuit inter dict Com Suff. & ipsam Annam virtute cujus quidem relaxationis necnon vigore Statuti pdict de usibus in possessionem transferend dict Comes Suff. & Anna seisit fuer de Manerio pdict cum ptin videlt idem Comes in dominico suo ut de feodo & eadem Anna in dominico suo ut de libo tenemento p termino vite sue Ipsisqꝫ sic inde seisit existen dictus Comes Suff. postea scilt primo die Junii anno Regni Dnī Regis nunc & Dne Marie nuper Regine Anglie primo apud Walden pdict obiit de tali statu suo inde seisit post cujus mortem pdicta Anna Comitissa Suff. fuit sola seisit de Manerio pdict cum ptin ad quod pdcus cursus ovium sic ut pfertur adtunc & antea & hucusqꝫ ptinuit in dominico suo ut de libero tenemento p termino vite sue Et sic inde seisit existen eadem Anna Comitissa

To *Anne Mountague* for her life for her Joynture.

The Marriage took effect.

The Earl dies.

tissa Suff. postea scil't vicessimo nono die Augusti anno Regni dcī Dnī Regis & Dnē nuper Regine quinto apud Walden p̄red p̄ quandam Indenturam inter ipsam Annam Comitissam Suff. ex una parte & ipsum Robtum Lagden ex altera parte fact unam partem cujus Indenture sigillo p̄dict Anne Comitisse Suff. sigillat Idem Robertus Lagden hic in Cur̄ p̄fert cujus dat est die & anno ult specificat dimisit eidem Roberto Lagden Executoribus Administratoribus & Assign̄ suis a festo Scī Michaelis Archi prox. sequen̄ diem dat Indenture illius p̄ & duran̄ termino viginti & unius annoꝝ extunc prox. sequen̄ & plenarie complend & finiend virtute cujus dimissionis idem Robertus Lagden in Crastino post p̄dict Festum Scī Michaelis Archi px. sequen̄ dat Indenture ult specificat in cursum ovium p̄dict intravit & fuit & adhuc est inde possessionat Ipsoq; sic inde possessionat existen̄ dimid vocat Le nine Acres in p̄lito p̄dict superius specificat postea scil't decimo die Maii anno Regni Domini Regis nunc septimo supradict seminat fuit cum granis ac postea & ante p̄dict tempus transgr̄ p̄dict scil't vicessimo die Octobris anno septimo supradicto omnia blada in dicto clauso vocat Le nine Acres ex seminatione illa crescen̄ messa falcat & abinde asportat fuer̄ ac idem clausum vel aliqua pars inde dicto decimo sexto die Novembris anno septimo supradicto in narratione ipsius Roberti Lagden superius mentionat non fuit reseminat cum aliquibus granis p̄ quod idem Robertus Lagden post falcationem & asportationem bladoꝝ p̄dict ut p̄fertur & ante reseminationem clausi illius vel alicujus partis inde scil't p̄dict decimo sexto die Novembris anno septimo supradicto oves in narr̄ p̄dict mentionat posuit in dictum clausum vocat Le nine Acres in p̄lito p̄dict superius spec̄ ad herbam in eodem crescen̄ depascend & cursu ovium p̄dict intend put ei bene licuit Ac p̄dict Thomas & Margareta & Johes oves p̄dict ibidem ex causa p̄dict existen̄ eisdem die & anno ult specificat in p̄dict clauso vocat Le nine Acres apud Walden p̄dict ceper̄ & fugaber̄ modo & forma put idem Robertus Lagden superius versus eos queritur Et hoc parat est verificare unde ex quo p̄dict Thomas & Margareta & Johes transgr̄ p̄dict superius cogn̄ idem Robertus Lagden pet Judicium & dampna sua occasione transgr̄ p̄dict sibi adjudicari &c. Cum hoc qd idem Robertus Lagden verificare vult qd p̄dict Anna Comitissa Suff. adhuc superstes & in plena vita existit scilicet apud Walden p̄dict.

The Countess demised the said Sheep-walk, *inter alia*, to the Plaintiff for 21 years.

The Close was sowed, and after the Corn was carried away, and before it was resown did put in his Sheep, aud the Defendant drove them away.

Et p̄dict Thomas Margareta & Johes dicunt qd p̄litum p̄dict p̄dict Roberti superius replicando p̄litat minus sufficien̄ in lege existit ad ipsum Robertum ad actionem suam predictam inde versus eos habend manutenend quodq; ipsi ad p̄litum illud modo & forma p̄dict p̄litat necesse non habent nec p̄ legem terre tenentur aliquo modo respondere Et hoc parat sunt verificare unde pet Judicium Et qd p̄dictus Robertus ab actione sua p̄dict inde versus eos habend p̄cludatur &c.

Demurrer general.

Et p̄dictus Robertus ex quo ipse sufficien̄ materiam in lege ad ipm̄ Robertum actionem suam p̄dict versus p̄dict Thomam & Margaretam & Johem habend manutenend superius replicando allegavit quam ipse parat est verificare Quam quidem materiam p̄dict Thomas & Margareta & Johes non dedicunt nec ad eam aliqualiter respondent sed verificaconem illam admittete omnino recusant ut prius pet Judicium & dampna sua occasione transgr̄ p̄dict sibi adjudicari &c.

Joynder in Demurrer.

Tempest.

Mich. 11 W. III. Rot. 677.

Hoggart *versus* Harrison & Al'.

Trespass for taking Sheep and Lambs. *Stiles* 71. 3 *Crok.* 818. *Draycot's* Case.

Cumbr. ss. JOhannes Harrison Senior nuper de Newbiggen in Com' pd Yeom' Johes Harrison Jun' de eadm Yeom' & Johes Colson nup de Kirkolwold in Com' pdict Yeom' attach fuer' ad respondend Johi Hoggart de Plito quare vi & armis sexdecim Oves matrices & duodecim Agnos ipsius Johannis Hoggart pdict quinq; Librar apud Penreth nuper invent' ceper' & abduxer' & alia enormia ei intuler' ad grave dampnum ipsius Johis Hoggart & contra pacem Dni Regis nunc &c. Et unde idem Johes Hoggart p Lancelotum Simpson Attorn' suum queritur qd pdict Johes Harrison Sen' Johes Harrison Jun' & Johes Colston decimo quinto die Maii Anno Regni Dom' Regis nunc undecimo vi & armis sexdecim Oves matrices & duodecim Agnos ipsius Johis Hoggart precij &c. apud Penreth pdict nuper invent' ceperunt & abduxer' & alia enormia &c. ad grave dampnum &c. & contra pacem &c. und dic' qd deteriorat' est Et dampnum het ad valenciam decem Librar Et inde pduc' Sectam &c.

Plea, Recovery before the Sheriff in the County Court by *Justicies*.

Et pdict Johes Senior & Johes Junior & Johes Colson per Carolum Townsend Attorn' suum ven' & defend vim & injur' quando &c. Et quoad venire vi & armis dicunt quod ipsi in nullo sunt inde culpabiles Et de hoc pon' se sup patriam Et pdict Johes Hoggart inde simil' & quoad resid' transgr' pdict superius fieri suppo̅it iidem Johes Harrison Senior Johes Harrison Junior & Johes Colston dicunt qd pdict Johes Hoggart Actionem suam predictam inde versus eos here non debet Quia dic' qd diu ante pdict tempus quo &c. scil't ad Cur' Thome Dawes Ar' Vic' Com' sui Cumbr' pdict tent' apud Keswick in eodem Com' vicesimo secundo die Februarii anno Regni Dni Regis nunc undecimo coram Georgio Brownrigg & Willo Earnes Sectatoribus ejusdem Cur' Idem Johes Harrison Senior virtute Brevis Dni Regis de Justicies in ea parte ante tunc psecut' & eidem Vic' direct' in dicta Cur' Com' sui pdict levavit quandam querelam suam versus pfat' Johannem Hoggart in quodam Plito debi super demand septuaginta Solidor p causa Actionis infra Jurisdictionem ejusdem Cur' surgen' emergen' & acciden' taliterq; supinde Process. fuit ad Sectam ipsius Johis Harrison Sen' versus pdict Johem Hoggart in eadem Cur' de pdict Plito comparen' qd postea scil't ad Cur' ipsius Vic' Com' sui pdict tent' apud Keswick pdict vicesimo sexto die Aprilis Anno undecimo supradicto coram Sectatoribus predictis p Judicium ejusdem Cur' p debm Legis Cursum idem Johes Harrison Sen' recuperavit versus pfat' Johannem Hoggart tam pdict debm septuaginta Solidor quam triginta & novem Solidos & quatuor denar p dampnis suis que sustinuit tam occone detencionis debi illius quam p misis & custagiis suis p ipsum circa Sectam suam in ea parte appo̅it eidem Johi Harrison Sen' ex assensu suo p eandem Cur' adjudicat' unde convict' est put per eandem recuperacon' coram eodem Vic' apud Keswick pdict remanen' plenius liquet & apparet Super quo quidem Judicio ad psecutionem ipsius Johannis Harrison Sen' postea scil't eisdem die & anno secundum consuetudinem ejusdem Cur' ad istam eandem Cur' extra Cur' ill' emanavit quoddam preceptum ejusdem Cur' in no̅ie ejusdem Vic' sigillo officii sui Vic' Com' pdict signat' & pfat' Johi Colston direct' quod ei pcept' fuit qd de bonis & catallis pdict Johannis Hoggart in Balliva ejusdem Vic' levare faceret debitum & dampna pdict ita qd heret denar' ill' ad tunc pr' Cur' Com' ejusdem

dem Vic Com sui prædict tenend apud Kestwick prædict decimo septimo die Maii Anno undecimo supradicto ad satisfaciend eidem Johi Harrison Sen de debito et dampnis prædict quod quidem precept postea et ante retorn inde scilt decimo quinto die Maii Anno undecimo supradicto apud Penreth prædict eidem Johi Colston per eundem Johannem Harrison Sen delibat fuit in forma juris exequend virtute cujus quidem precept idem Johes Colston et prædict Johannes Sen et Johannes Jun ut Servien ipsius Johis Colston et per ejus precept dicto tempore quo etc. Oves et Agnos prædict in executione pro debito et dampnis prædict apud Penreth prædict ceper et aliqualit fugaver ea intentione ad debitum et dampna prædict vendend inde levand prout eis bene licuit. Idemque Johes Colston precept illud in forma prædict execut eidem Vic ad pr' Cur' Com sui prædict tent apud Kestwick prædict decimo septimo die ejusdem Maii retornavit. Et hoc parat sunt verificare unde pet Judicium et prædict Johannes Hoggart Actionem suam prædict inde versus eos here debeat, etc. Non conclud. que est ead.

Et prædict Johannes Hoggart dic quod prædict Placitum prædict Johis Harrison Johis Harrison et Johis Colston superius in barram placitat ac materia in eadem content minus sufficien in lege existunt ad ipsum Johannem Hoggart ab Actione sua prædict hend precludend quodque ipse ad Placitum illud modo et forma prædict placitat necesse non het nec per Legem terre tenetur respondere Et hoc parat est verificare unde pro defectu sufficien Placiti prædictorum Johannis Harrison Johis Harrison et Johis Colston in hac parte idem Johes Hoggart pet Judicium et dampna sua occone transgr' prædict sibi adjudicari etc. Demurrer.

Et prædict Johes Harrison Johes Harrison et Johes Colston dic quod Placitum prædict per ipsos Johem Harrison Johem Harrison et Johem Colston modo et forma prædict superius placitat materiaque in eodem content bona et sufficien in lege existunt ad prædict Johannem Hoggart ab Actione sua prædict inde versus ipsos Johem Harrison Johem Harrison et Johem Colston hend precludend quod quidem Placitum materiamque in eodem content ipsi iidem Johes Harrison Johes Harrison et Johes Colston parat sunt verificare et probare prout Cur' etc. Et quia prædictus Johannes Hoggart ad Placitum illud non respond nec illud hucusque aliqualit dedic ipsi iidem Johes Harrison Johes Harrison et Johes Colston ut prius pet Judicium et quod prædictus Johannes Hoggart ab actione sua prædict inde versus eos hend precludatur, etc. Joynder.

Mich.

Winford.

Mich. 11 W. & M. Rot. 330.

Sympson *versus* Bythwood.

Suff. ss. STorer Bythwood nuper de Eastdean in Com pdict Yeom attach fuit ad respondend Jacobo Simpson de Plito quare vi & armis bona & catalla ipsius Jacobi ad valentiam quadraginta Librarum apud Eastdean invent cepit & asportavit & alia enormia ei intulit ad grave dampnum ipsius Jacobi & contra pacem Dni Jacobi nup Regis Anglie &c. Et unde idem Jacobus p Thomom Ilsted Attorn suum queritur qd pd Storer vicesimo octavo die Decembris Anno Regni dci Dni nuper Regis Angl &c. tertio vi & armis videlt gladiis baculis & cultellis bona & catalla videlt unam Anchoram & unum funem Anchorarium Anglice a Cable ipsius Jacobi ad valenc &c. apud Eastdean pdict invent cepit & asportavit & alia enormia &c. ad grave dampnum &c. Et contra pacem &c. Unde dic qd deteriorat est & dampnum het ad valenc quinquaginta Librarum Et unde produc Sectam &c.

Trespass *vi & armis.*

Narr.

Placitum.

Et pd Storer Bythwood p Johem Purfeild Attorn suu ven & defend vim & injur quando &c. Et quoad venire vi & armis seu quicquid qd est contra pace dicti nuper Regis Idem Storer dicit qd ipse in nullo est inde culpabilis & de hoc pon se super patriam Et pdict Jacobus Simpson simil &c. Et quoad residuum transgr pdict superius fieri suppoit Idem Storer dic qd pdict Jocobus Actionem suam pdict inde versus eum here non debet quia dic qd quidam Willus Whatton & Benjaminus Tooke diu ante pdict tempus quo supponitur transgr pdict fieri & pdict tempore quo &c. seit fuer & adhuc seit existunt de & in Manerio de Birling cum ptin in Com Suff. pdict in Dominico suo ut de feodo Quod quidem Manerium jacet in Eastdean pdict in Com pdict & se extendit & contigue adjacet ad altum mare ubi mare p cursum suum p tempore fluit & refluit a tempore cujus contrar memoria hominum non existit fluxit & refluxit Et pdict Storer ulterius dic qd infra Manerium pdict talis hetur necnon a tempore cujus contrarii memoria hominu non existit hebatur consuetudo videlt qd quilibet Dominus Manerii pdicti p tempore existen a toto tempore supradicto solebat & usus fuit curare Anglice to take care tam de sanatione omnium personarum egrotarum & de sepultur omnium person mortuar qui extra aliquam navem naufragam sup terram Manerii pdict inter fluxum & refluxum maris ibm project fuer qm de conservatione bonor & catallor que extra aliqua tali nave naufraga super terram Manerii pdict inter fluxum & refluxum maris ibm relict fuer pro usu pprietar eorundem Ac in consideracon inde hujusmodi Dom Manerii pdict p tempore existen p totum tempus pdict usus fuit & consuevit seire & ad usum suum pprium here optimam Anchoram & optimum funem Anchorar Anglice Cable cujuslibet navis que p tempestat & at extremitat maris naufrack fuerit Anglice was Shipwrackt sup terram Manerii pdict inter fluxum & refluxum maris impulsa & relict fuerit Et pdict Storer ulterius dic qd ante pdict tempus quo supponitur transgr pdict fieri quedam navis super altum mare ppe Manerium pdict vehement tempestat jactat & naufrack fuit & p tempestat ill & at extremitat maris sup terram Manerii pdict apud Eastdean pdict int fluxum & refluxum maris ibm cum Achora & Fune Anchorar pdict eidem navi ptinen impulsa & ibm relict fuit p quod pdictus Storer ut Ballivus pdictor Willi & Benjamini tunc & adhuc Dom Manerii pdict ut pfertur existen & p cor mandat navem pdict super terram Manerii pdict apud Eastdean pdict inter fluxum & refluxum maris ibm sic ut

Justifie that the Lord of the Mannor, for the Conservation of the Sick, and the Burial of the Dead cast on Shoar, and Preservation of the Goods, used to have the best Anchor and the best Cable of every Shipwrack.

pfertur

Aſſertur im pulſ & ibm relict ꝑdicto tempore quo &c. poſt refluxum maris ibm intravit & ꝑdict Anchoram & Funem Anchorar ꝑdict ejuſdem navis in eadem nave adtunc & ibm exiſten ut optimam Anchoram & optimum Funem Anchorar ejuſdem navis eodem tempore quo &c. ſeiſivit & extra eandem navem cepit & aſportavit ad uſum ꝑdictor Willi & Benjamini virtute conſuetudinis ꝑdict put ei bene licuit Que quidem ſeiſura captio & aſportatio Anchore & Funis anchorar ꝑdict ꝑ ꝑdictum Stozer in forma ꝑdicta & ex cauſa ꝑdict fact ſunt idem reſis tnſgr ꝑdict unde ꝑdict Jacobus ſuperius ſe modo queritur Et hoc parat eſt verificare unde pet Judicium ſi ꝑdict Jacobus Actionem ſuam ꝑd inde verſus eum here debeat &c.

Querens moratur in lege.

Hill. 1 W. & M. Rot.

Winford.

Randal *verſus* Whiſton.

Warr. ſſ. Samuel Whiſton nuper de Henly in Arden in Com ꝑdict Taylor attach fuit ad reſpondend Willo Randal de Plito quare vi & armis in quandam Elizabetham Tayler Servien ipſius Willi apud Henley in Arden ꝑdict inſultum fecit & ipſam verberavit vulneravit & maletractavit ꝑ quod idem Willus ſervitium Servien ſui ꝑdict ꝑ magnum tempus amiſit ac bona & catalla ſua ad valentiam quinq; libr ibm invent ſecuit & ſpoliavit & alia enormia ei intulit ad grave dampnum ipſius Willi & contra pacem Dom Regis & Dne Regine nunc &c. Et unde idem Willus ꝑ Samuelem Rawlins Attorn ſuum queritur qd predictus Samuel Whiſton octavo die Aprilis Anno Regni Dni Regis & Dne Regine nunc primo vi & armis videlt gladiis baculis & cultellis in ipſam Elizabeth apud Henly in Arden ꝑdict in Com ꝑdicto inſult fecit & ipſam verberavit vulneravit & maletractavit ꝑ quod idem Willus ſervicium Servien ſui ꝑdict per magnum tempus videlt ꝑ ſpatium unius menſis extunc px ſequen amiſit ac bona & catalla videlt viginti libratas butyri ad valenc &c. ipſius Willi adtunc & ibm nup invent ſecuit & ſpoliavit & alia enormia &c. ad grave dampnum &c. & contra pacem &c. Unde dic quod deteriorat eſt & dampnum het ad valenc quadragint Librarum Et inde pduc Sectam.

Treſpaſs of Aſſault and Battery, and ſpoiling Goods by a Maſter.

Et ꝑdict Samuel ꝑ Edrum Willes Attorn ſuum ven & defend vim & injur quando &c. Et quoad venire vi & armis necnon totam tnſgr ꝑdict pter ſecconem & ſpoliaconem cujuſdam parcelle Butyri inferius ſpec dic qd ipſe in nullo eſt culpabilis put ꝑdict Willus ſuperius verſus eum queritur Et de hoc pon ſe ſuper patriam Et ꝑdict Willus ſimil &c. Et quoad ꝑdictam ſecconem & ſpoliaconem ꝑdict parcelle Butyri idem Samuel dic qd ꝑdict Willus Actionem ſuam ꝑdict inde verſus eum here non debet Quia dic qd ante ꝑdictum tempus quo ſuperius ſupponitur tnſgr ꝑd fieri necnon eodem tempore quo &c. quidam Andreas Archer Armig fuit & adhuc exiſtit ſeit de & in Manerio de Henly in Arden in Com Warr ꝑd in Dominico ſuo ut de feodo quodq; idem Andreas & omnes illi quorum ſtatum idem Andreas modo het & ꝑdicto tempore quo &c. huit de & in Manerio ꝑd cum ptin huer & here conſuever infra Manerium illud tam viſum Franc pleg omnium reſiden & inhitan infra Manerium illud bis ꝑ annum ſcilt ſemel infra menſem Paſche & iterum infra menſem Sci Michaelis quotannis tenend quam unam Per-

Placitum. Not guilty as to the Aſſault.

As to the Goods.

And as to the Goods, that there is a Mannor within the Leet and a Market in it, and that Ale-tasters used to be chosen to weigh the Butter there.

Mercatam p venditione & emptione Butyri & alior Victualium infra Manerium illud ad venditionem expoit quolibet die Lune tenend una cum Assisa & Assaia Panis Cervisie & Butyri in Mercata illa ad venditionem expoit Et idem Samuel ulterius dic qd infra Manerium illud talis hetur necnon a tempore in cujus contrarium memoria hominum non existit habebatur consuetudo quod essent de tempore in tempus infra Manerium illud quidam Officiarii vocat Ale-tasters in visu Franc pleg pdict de tempore in tempus constituend & jurand Et qd tales Officiarii herent seu aliquis eor heret potestatem & authoritatem p assisam & ponderationem cum ponderibus eo proposito ibm p totum tempus supradictum in hac parte custodit & usitat assaiare & ponderare totum Butyrum in Mercata pdict ad venditionem in formis quartar Anglice of Quarts & semiquartar Anglice half Quarts expoit ne emptores talis Butyri ibm defraudarentur Et quandocunq aliquod Butyrum in aliqua tali forma in Mercata illa ad venditionem expoit deficeret de debo pondere in ea parte ibm usitat scilt Butyrum in forma quarte deficeret de pondere trium librarum & Butyrum in forma semiquarte deficeret de pondere unius libre & dimid unius libre juxta Assisam & pondera ibm p totum tempus supradictum in ea parte custodit & usitat qd tunc & toties bene liceret Officiariis pdict vocat Ale-tasters vel eorum alicui p tempore existen hujusmodi Butyrum ibm secare ne aliquis emendo Butyrum illud in Mercat pdict defraudaretur Et pdict Samuel Whitstons ulterius dic qd ipse idem Samuel ad Cur vis Franc pleg pdict Andree tent apud Henly in Arden pdict infra mensem Scti Michis scilt vicesimo quarto die Octobr Anno Regni Dom Jacobi nuper Regis Angl secundi quarto coram Willo Parker Generoso adtunc Senescallo pdict Andree Cur illius debite constitut & jurat fuit unius Officiarior vocat Ale-tasters infra Manerium pdict juxta consuetudinem pdict Qui quidem Samuel Whitston hujusmodi Officiarius fuit & continuavit usq ad & post pdict tempus quo &c. videlt apud Henley in Arden pdict quodq ipse idem Samuel pdict tempore quo &c. scilt die Lune pdicto octavo die Aprilis Anno primo supradicto apud Henly in Arden pdict ut Officiarius pdict vocat Ale-taster assaiavit & ponderavit quandam parcellam Butyri pdict Willi p pfat Elizabeth in pdict Mercata ibm ad venditionem in forma semiquarte ibm usitat expoit Et quia eadem parcella Butyri adtunc & ibm defecit de pdicto pondere unius libre & dimid unius libre juxta Assisam & pondera ibm per totum tempus supradictum ea parte custodit & usitat idem Samuel ut Officiarius pdict vocat Ale-taster pdicto tempore quo &c. apud Henley in Arden pdict pdictam parcellam Butyri secuit secundum debitum Officii sui pdict ne aliquis emendo Butyrum illud ne Mercata illa defraudaretur absq ulteriori dampn in vel erga Butyrum pdict facto put ei bene licuit Que est eadem sectio & spoliatio Butyri pdict unde pdict Willus superius versus eum queritur Et hoc parat est verificare unde pet Judicium si pdict Willus Actionem suam pdict inde versus eum here debeat &c.

And if it wanted weight, to cut it.

That the Defendant was chosen Ale-taster.

And cut the Butter for want of weight.

Demurr. gen.

Et pdcus Willus dicit qd Ptitum pdict Samuelis superius in barram ptitat & materia in eadem content minus sufficien in lege existunt ad ipsum Willum ab Actione sua pdicta Ilus pfat Samuelem hend pcludend quodq ipse ad Ptitum illud modo & forma pdict ptitat necesse non het nec p legem terre tenetur respondere Et hoc parat est verificare unde p defcu sufficien Ptiti in hac parte idem Willus pet Judicium & dampna sua occone transgr & insult pdict sibi adjudicari &c.

Joynder.

Et pdict Samuel Whitston ex quo ipse sufficien materiam in lege ad pdict Willm ab accone sua pdict quoad pdict sectionem & spoliationem pdict parcelle Butyri versus eum hend supius allegavit quam ipse parat est verificare quam quidem materiam pdict Willus non dedic nec ad eam aliqualiter respondit set verificationem illam admittere omnino recusat pet

Judicium

Judicium qd pdict Willus ab Actione sua pdict inde vslus eum hend preclud atur &c. Et quia Justic hic se advisare volunt de & sup pmissis priusquam Judicium inde reddant dies dat est partibus pdictis hic usq; a die Pasch in quindecim dies de audiendo inde Judicio suo eo qd iidem Justic hic inde nondum &c.

Trin. 5 W& M. in B.R.

King & Ux' *versus* Febbard.

Surr. ss. Memorand qd als scilt Termino Pasch ult pterit coram Dno Rege & Dna Regina apud Westm vent Josephus King & Maria Uxor ejus p Jacobum Long Attorn suum & ptulet hic in Cur dictor Dnor Regis & Dne Regine tunc ibm quandam Billam suam versus Ricum Febbard in custod Marr &c. de Plito transgr & insult & sunt Pleg de prosequend scilt Johes Doo & Ricus Roe. Que quidem Billa sequitur in hec verba ss. Surr ss. Josephus King & Maria Uxor ejus queruntur de Rico Febbard in Custod Mar maresc Dni Regis & Dne Regine coram ipsis Rege & Regina existen de eo qd ipse idem Ricus duodecimo die Novembr Anno Regni Dnor Willi & Dne Marie nunc Regis & Regine Angl &c. quarto vi & armis &c. in ipsam Mariam apud Parochiam in Burgo de Southwark in Com Surr pd insult fecit & ipsam Mariam adtunc & ibm verberavit vulneravit & maletractavitita qd de vita ejus maxime desparabatur Et alia enormia eidem Marie adtunc & ibm intulit contra pacem dictorum Dnor Regis & Dne Regine nunc &c. ad dampnum ipsor Josephi & Marie ducentarum Librarum & inde pduc Sectam &c. — *Trespass, Assault of the Wife.*

Placitum. Et modo ad hunc diem scilt diem Veneris px post Crastinum sce Trinitatis isto eodem Termino usq; quem diem pdict Ricus huit licentiam ad Billam pdictam interloquend & tunc ad respondend &c. coram Dno Rege & Dna Regina apud Westm vent tam pred Josephus & Maria p Attorn suum qm pred Ricus p Adam Waynes Attorn suum Et idem Ricus defend vim & injur quando &c. & dicit qd pred Josephus & Maria Actionem suam pdictam inde vslus eam here seu manutenere non debent quia dic qd pdict Maria die & anno supradictis apud Parochiam pdict in Com pdict vi & armis &c. in ipsum Ricardum insult fecit Et ipsum Ricum adtunc & ibm verberavit & maletractavit & ipsum vulnerare & mahemiare voluisset nisi ipse idem Ricardum seipsum erga pfat Mariam citius defendisset p quod idem Ricus seipsum erga pfat Mariam adtunc & ibm defendebat Et dic qd dampnum vel malum si qd eidem Marie adtunc & ibm evenit hoc fuit de pdict insult ipsius Marie ppr & in defensione ipsius Rici Et hoc idem Ricardus parat est verificare unde pet Judicium si pdict Joseph & Maria Actionem suam pdictam inde versus eum here seu manutenere debeant &c. — *Son Assault demesne, and for his own defence.*

Jo. Conyers.

Replic. Et pdict Josephus & Maria dic qd ipsi p aliqua p pfat Ricardum superius plitando allegat ab Actione sua pdict inde versus eum hend pcludi non debent quia dic qd pdicto tempore quo supponitur insult pdict p pdict Mariam in & super pfat Ricardum fieri ipse idem Josephus possessionat fuit de una domo mansonali & Shopa adinde spectan scituat in Paroch & Burgo pdict in Com pdict ipsoq; Josepho sic inde possessionat existen pdict Ricus eodem tempore

That the Plaintiff was possessed of an House and Shop, and the Defendant entred and reviled him; whereupon the Wife by his command molliter manus imposuit.

quo supponitur insult̄ p̄dict̄ p p̄dictam Mariam in & super eundem Ricardum fieri in p̄dictam Shopam in & super possessionem ipsius Josephi intravit & eundem Josephum diversis injuriis & contumeliis laceſs̄ super quo p̄dictus Josephus adtunc & ib̄m requisivit p̄dict̄ Ricardum qd̄ ipse e Shopa sua p̄dicta decederet Et quia p̄dict̄ Ric̄us adtunc & ib̄m recusavit decedere e Shopa p̄dict̄ p̄dicta Maria eodem tempore quo &c. per mandatum p̄fati Joseph mollit̄ manus imposuit in & super p̄fatum Ricardum ad eundem Ricardum extra Shopam p̄dict̄ amovend̄ put ei bene licuit sup̄ quo p̄dict̄ Ricardus ira motus in ipsam Mariam adtunc & ib̄m insultum fecit & ipsam adtunc & ib̄m verberavit & maletractavit ita qd̄ de vita ejus maxime desparabatur contra pacem dictorum Dn̄i Regis & Dn̄e Regine nunc put iidem Josephus & Maria superius versus eum queruntur Et hoc parat̄ sunt v̄ificare Unde ex quo p̄dict̄ Ricardus tn̄sgr̄ p̄dict̄ superius cogn̄ iidem Josephus & Maria pet̄ Judicium & dampna sua occasione p̄missorum sibi adjudicari &c.

J. Darnall.

Demur. special.

Et p̄dict̄ Ric̄us dic̄ qd̄ Pl̄itum p̄dictum p̄dictor̄ Josephi & Marie superius replicando pl̄itat̄ materiaq; in eodem content̄ minus sufficien̄ in lege existunt ad ipsos Josephum & Mariam ad Actionem suam p̄dict̄ inde v̄sus ipsum Ricardum hend̄ manutenend̄ Ad quod quidem Pl̄itum modo & forma p̄dict̄ pl̄itat̄ idem Ricardus necesse non h̄et nec per legem terre tenetur aliquo modo respondere Et hoc parat̄ est v̄ificare unde p defectu sufficien̄ Replicationis in hac parte idem Ric̄us pet̄ Judicium Et qd̄ p̄d Josephus & Maria ab Actione sua p̄d inde v̄sus ipsum Ric̄ hend̄ p̄cludatur &c. Et p causa morationis in lege in hac parte secundum formam Statut̄ idem Ric̄ ostendit & Cur̄ hic demonstrat has causas subsequen̄ videl̄t eo qd̄ Pl̄itum p̄dict̄ p̄dictorum Josephi & Marie non admittit nec traversat seu aliqualit̄ respond̄ ad materiam substantie p p̄d Ricard̄ superius in barram pl̄itat̄ & narratione p̄dict̄ repugnans existit ac incertum est & caret forma &c.

Jo. Conyers.

Joynder.

Et p̄dict̄ Joseph & Maria dic̄ qd̄ Pl̄itum p̄d p ipsos Josephum & Mariam modo & forma p̄dictis superius replicando pl̄itat̄ materiaq; in eodem content̄ bon̄ & sufficien̄ in lege existunt ad Actionem ipsorum Josephi & Marie p̄dict̄ versus p̄dict̄ Ric̄um hend̄ manutenend̄ quod quidem pl̄itum materiamque in eodem content̄ ipsi iidem Josephus & Maria parat̄ sunt verificare & p̄bare put Cur̄ &c. Et quia p̄dictus Ric̄us ad Replicationem illam non respondit nec illam hucusq; aliqualit̄ dedicit ipsi iidem Josephus & Maria (ut prius) pet̄ Judicium & dampna sua occasione p̄missorum sibi adjudicari &c. Sed quia Cur̄ dictorum Dn̄i Regis & Dn̄e Regine nunc hic de judicio suo de & super p̄missis reddend̄ nondum advisatur dies inde dat̄ est partibus predictis coram Domino Rege & Dn̄a Regina apud Westm̄ usq; diem pr̄ post de Judicio suo de & super p̄missis illis audiend̄ eo qd̄ Cur̄ dictorum Dom̄ Regis & Dom̄ Regine nunc hic inde nondum &c.

Jo. Darnell.

Hill.

Hill. 4 & 5 W. & M. Rot. 1271.

Shaylor *versus* Godfrey & *al.*

Winford.

Oxon. ss. Nicholas Shaylor nuper de Milton in Com̄ p̄dicto Faberferrarius Johes Brooks nup de Milton in Com̄ p̄dict Agricola Thomas Cripps nuper de Milton in Com̄ p̄dict Agricol & Thomas Rawlings nuper de Milton in Com̄ p̄dict Yeoman attach fuer' ad respondend Henrico Godfrey Gen̄ uni Attorn̄ Cur' Dn̄i Regis & Dn̄e Regine de Banco de Plito quare ipsi simulcum Willo Watson nuper de Borton super montem in Com̄ Glouc Gen̄ & Thoma Baylys nuper de Milton in Com̄ Oxon̄ p̄dict Yeoman vi & armis Clausum ipsius Henrici apud Milton freger' & blada & herbam sua ad valenciam centum solid ibm nuper crescen̄ pedibus suis ambulando conculcaver' & consumpser' & alia blada & herbam sua ad valenciam al centum solid ibm scilt nup crescen̄ cum quibusdam averiis depast fuer' conculcaver & consumpser ac muros & fensur' ipsius Henrici ibm nuper erect pstraver' ac januas ipsius Henrici ad valenc al centum solid ibm nup erect & firat freger' ceper' & asportaver' Et alia enormia ei intuler' ad grave dampnum ipsius Henrici, & contra pacem Dn̄i Regis & Dn̄e Regine nunc &c. Et unde idem Henricus in ppria persona sua queritur qd p̄dicti Nichus Shaylor Johes Brooks Thomas Cripps & Thomas Rawlings simulcum p̄dicto Willo Watson & Thomas Baylys septimo die Maij Anno Regni Dn̄i Regis & Dom̄ Regine nunc tertio vi & armis &c. Clm ipsius Henrici apud Milton p̄dict freger' & blada & herbam sua ad valenc &c. ibm nuper crescen̄ pedibus suis ambulando conculcaver' & consumpser' & al blada videlt triticum siliginem hordeum pisas fabas & avenas & herbam sua ad valenc &c. ibm silit nup crescen̄ cum quibusdam averiis videlt Equis Bobus Vaccis Porcis & Bidentibus depast fuer' conculcaver' & consumpser' ac muras & fensur' videlt quadraginta ptical murorum lapidum & fensur' ipsius Henrici ibm nup erect pstraver' ac januas videlt duas januas ipsius Henrici ad valenc &c. ibm nuper erect & firat freger' ceper' & asportaver' & alia enormia &c. ad grave dampnum &c. Et contra pacem &c. Unde dic quod deteriorat est & dampnum het ad valenciam viginti Librarum Et inde pduc Sectam.

Trespass. *Clausum fregit, & fensuras prostern.*

Placitum.

Et p̄dict Nichus Johes Brooks Thomas Cripps & Thomas Rawlings p Johem Brooks Gen̄ Attorn̄ suum ven̄ & defend vim & injur' quando &c. Et quoad venire vi & armis & quoad aliquam trnsgr cum Equis Bobus Vaccis & Porcis & quoad captionem & asportationem januarum p̄dictar & bladorum p̄dictor pedibus ambulando conculcacon̄ & consumpcon̄ necnon quoad al bladorum p̄dictor cum Ovibus depast conculcationem & consumptionem superius fieri suppoit Iidem Nichus Johes Brooks Agricola Thomas Cripps & Thomas Rawlings dicunt qd ipi non sunt inde culpabiles Et de hoc pon̄ se super patriam Et p̄dcus Henricus inde silit Et quoad fractionem Cli p̄dict ac pstrationem murorum & fensor dictor ac fractionem januar p̄dictarum ac herbe p̄dict pedibus ambulando conculcacon̄ & consumpcon̄ ac al herbe p̄dict cum Ovibus depast conculcacon̄ & consumpcon̄ p ipsos Nichum Thomam Cripps & Thomam Rawlings superius fieri suppoit iidem Nichus Thomas & Thomas dicunt qd p̄dcus Henricus Actionem suam p̄dict inde versus eos here non debet quia dicunt qd Clum p̄dictum necnon locus in quo supponitur trnsgr p̄dict fieri fuer' quinq acre terre um ptin̄ in Milton p̄d ac modo sunt & p̄dicto tempore quo &c. necnon a tempore cujus contrari

As to the fraction of the Close, and throwing down the fences.

That the *locus in quo* is parcel of a Field which used to be sowed every second year.

And that the Principal and Scholars of *Queens Colledge* in Oxon. prescribes *pro se & firmariis* common of Pasture every year that the Land lies. Fresh Lease from the Colledge reserving the Colledge Rent.

trarii memoria hominum non existit fuer' parcella cujusdam campi vocat Miltonfield & jace iu ex orientali parte campi illius in Milton pdict Quodq; eadem parcella ejusdem campi a toto tempore supradict quolibet alterno anno vocat every second year cum gran seminari usus fuit debuit & consuevit & quolibet alterno Anno Anglice every other year jacuit friscus & ad wareck ac ita jacere debuit Modq; diu ante pdict tempus quo &c. Principalis & Scholares Aule Regie & Collegii Reginensis in Oxon seisit fuer' de duobus Messuagiis & octo virgat terre cum ptinen in Milton pdict in Dnico suo ut de feodo in jure Aule & Collegii sui pdict iidem Principalis & Scholares ac omnes Predecessores sui in Aula & Collegio illo & omnes illi quorum statum ipsi hunt de in tentis illis cum ptin a tempore cujus contrarii memoria hominum non existit hucr ad here usi fuer' & consueber' p se firmariis & tenentibus suis inde coium pasture in predict loco in quo &c. p quadraginta Ovibus p qualibet virgat terre inde quolibet anno quo pdict locus in quo &c. ut pfertur jacuit & jacere debuit friscus & wareck p totum annum illum tanquam ad pdict octo virgat terre cum pertin spectan pdictisq; Principali & Scholaribus sic inde seisit existen iidem Principalis & Scholares diu ante pdict tempus quo &c. scilt vicesimo septimo die Octobris Anno Regni Dni Jacobi secundi nuper Regis Anglie &c. tertio apud Milton pdict (quodam Johanne Meare sacre Theologie Professore adtunc & adhuc Principali ibm existen) p quandam Indentur inter ipsos Principalem & Scholares ex una parte & quendam Edmundum Pleydell Gen ex altera parte factam cujus unam partem sigillo communi ipsorum Principalis & Scholar' signat iidem Michus Thomas Cripps & Thomas Rawlings hic in Cur' pferc heren dat eisdem die & anno dimiser' concesser' & ad firmam tradider' eidem Edmundo tenta pdicta cum ptin cum antiquis & usualibus Exceptionibus (scilt) Except & semper reservat extra eandem dimissionem corporibus & capitibus Anglice Topps omnium & omnimod arbor quercuum fraxinor vel ulmor que tunc fuer' aut ad aliquod tempus tunc postea durante dimissione hic postea specificat starent crescerent seu existerent in vel super dimissa pmissa cum ptin vel aliquam partem inde cum libera libertate ingress egress & regress cum Servientibus operariis Equis Carucis & Cariagiis ad defalcand succidend capiend Anglice Cart & asportand arbores illas ad ad eorum beneplacitum & voluntatem Hend & tenend tenta pdicta cum ptin except & Percept eidem Edmundo Executoribus Administratoribus & Assign suis a festo die Sci Michaelis Archangeli tunc ult pterit usq; ad finem & terminum viginti & unius annorum extunc prox' sequen plenar complend & finiend reddend & solvend pinde & annuatim & quolibet anno durante termino illo antiquum & usualem redditum p tentis illis reservat ad duo maxime festa usuat in anno videlt Festa Annuntiationis beate Marie Virginis & Sci Michaelis Archangeli p equales portiones de tribus Libris duobus Solidis & tribus denar ac duobus quarteriis quatuor modiis boni & suavis tritici ac duobus quarteriis & septem modiis & uno modiolo Anglice a Peck boni & suavis brasii vel tant curren monet Anglie & sic proportionabiliter Anglice ratably secundum partium quant optimum triticum & brasium venderentur in mercato Civitat Oxon in Com Oxon super dies mercatorias pr' ante quodlibet eorundem Festorum virtute cujus quidem dimissionis idem Edmundus postea scilt eodem vicesimo septimo die Octobr' Anno tertio ult supradicto in tenta pdict cum pertin (except Percept) intravit & fuit inde possessionat & sic inde possessionat existen idem Edmundus postea & ante pdict tempus quo &c. scilc vicesimo quinto die Martii Anno Domini 1691. apud Milton pdict dimisit eidem Thome Rawlings & cuidam Jane Rawlings vid dimissa pmissa cum pertin (except) & semper reservat extra eandem ult dimissionem tot illa domo mancional vocat the Upper Farm-house in Milton pdict ubi quidam Georgius Hancock tunc inhitabat acetiam domo mancionali in quodam loco vocat the Green in Milton pdict ubi quidam Matheus Rose tunc inhitabat ac Pomariis & Gardinis adinde pertinen

tinen̄ cum lib̄a via & passaḡ ad & p̄ dictis Georgio Hancock & Matheo Rose & assign̄ suis vel aliquibus aliis Tenentibus in ad vel trans acra Messuagiis illis spectan̄ ad aliquod tempus vel tempora sine molestatione acetiam omnibus maheremial̄ arboribus & amputationibus inde acetiam omnibus sepibus vocat̄ Hedgrows al̄ quā amputationibus arborum in quodam loco vocat̄ the Heath & quibusdam locis vocat̄ the Fields ut supradictum est concess. una cum lib̄a libertate potestate & authoritate ad omnia seasonabilia tempora Anni ad & pro dicto Edwō Pleydell Executoribus Administratoribus vel Assign̄ suis ad defalcand̄ succidend̄ capiend̄ & asportand̄ eandem vel aliquam partem inde ad ejus & eor̄ lib̄am voluntatem & beneplacitum p̄ uno Anno tunc px' sequen̄ & sic de Anno in Annum quamdiu partibus p̄dict̄ placeret virtute cujus quidem dimissionis idem Thomas Rawlings & p̄dict̄ Jana in ten̄ta p̄dict̄ cum pertin̄ (except̄ p̄ercept̄) intrabat ac dicto tempore quo &c. fuer̄ & adhuc sunt inde possessionat̄ quoq; in p̄red̄ Anno in quo &c. p̄dict̄ locus in quo &c. juxta prescriptionem p̄dictam jacere debuit friscus & ad wareck ac dicto tempore quo &c. inclus̄ fuit cum muris fensuris & januis p̄dictis p̄ quod idem Thomas Rawlings & p̄dict̄ Jana coīa sua p̄dict̄ ib̄m uti non potuer̄ sicq; idem Thomas in jure suo p̄prio & in jure ipsius Jane Ac p̄red̄ Michus & Thomas Cripps ut Servientes ipsorum Thome Rawlings & Jane & p̄ eor̄ p̄ceptum dicto tempore quo &c. in p̄dict̄ loco in quo &c. intraver̄ ad muros & fensuras p̄dict̄ p̄strand̄ ac Januas p̄dict̄ frangend̄ sic qd̄ idem Thomas Rawlings & p̄dict̄ Jana coīa p̄dict̄ uti non potuer̄ p̄ut de jure debuer̄ ac muros & fonsur̄ illos dicto tempore quo &c. p̄straver̄ & Januas p̄red̄ freger̄ ac herbam p̄red̄ ib̄m tunc crescen̄ ea occasione pedibus ambulando conculcaver̄ & consumpser̄ & al̄ herbam p̄dictam cum trecentis & viginti Ovibus ib̄m depast̄ fuer̄ conculcaver̄ & consumpser̄ utendo coīa ipsorum Thome Rawlings & Jane p̄dict̄ ib̄m p̄ut eis bene licuit que sunt idem resid̄ transgr̄ p̄dict̄ unde p̄dict̄ Henricus superius versus eos se modo queritur. Et hoc parat̄ sunt verificare unde pet̄ judicium si Henricus Actionem suam p̄red̄ inde versus eos here debeat &c. Et quoad fractionem Claus̄ p̄red̄ ac p̄strationem murorum & fensurarum p̄dict̄ ac fractionem Januarum p̄dict̄ ac herbe p̄dict̄ pedibus ambulando conculcacon̄ & consumpcon̄ & al̄ herbe p̄dict̄ cum Ovibus depast̄ conculcacon̄ & consumpcon̄ per ipsum Johannem Brooks agricolam superius fieri suppōit Idem Johēs Brooks agricola dicit qd̄ p̄dict̄ Henricus Actionem suam predictam inde versus eum here non debet quia dic̄ qd̄ Clausum p̄dict̄ necnon locus in quo supponitur transgr̄ illam superius fieri fuer̄ p̄dict̄ quinq; acre terre cum pertin̄ in Milton p̄dict̄ ac modo sunc & predicto tempore quo &c. necnon a tempore cujus contrarii memoria hominum non existit fuer̄ parcella p̄dict̄ campi vocat̄ Milton-field & jacen̄ ex orientali parte campi illius in Milton p̄dict̄ quoq; eadem parcella ejusdem campi a toto tempore supradicto quolibet alterno Anno vocat̄ every second year cum granis seminari usus fuit debuit & consuevit & quolibet alterno Anno Anglice every other year jacuit friscus & ad wareck ac ita jacere debuit quoq; diu ante p̄dict̄ tempus quo &c. quidam Rolandus Lacy Miles seisitus fuisset de & in uno messuagio & quinq; virgat̄ terre cum pertin̄ in Milton p̄dict̄ in Dominico suo ut de feodo Idemq; Rolandus ac omnes illi quorum statum ipse idem Rolandus huit in ten̄tis illis cum p̄tin̄ a toto tempore supradicto huer̄ ac here usi fuer̄ & consuever̄ p̄ se firmariis & ten̄tibus suis inde coīam pasture in p̄dict̄ loco in quo &c. p̄ quadraginta Ovibus & qualibet virgat̄ terre inde quolibet anno quo p̄dict̄ locus in quo &c. ut p̄fertur jacuit & jacere debuit friscus & ad wareck tanquam ad predictas quinq; virgat̄ terre cum pertin̄ spectan̄ p̄dictoq; Rolando de ten̄tis illis cum p̄tin̄ in forma p̄dict̄ seisit̄ existen̄ idem Rolandus ante p̄dict̄ tempus quo &c. scilt̄ octavo die Augusti Anno Regni Dnī Regis & Dn̄e Regine nunc secundo apud Milton p̄dictam dimisit eidem Johanni Brooks Agricole ten̄ta illa cum p̄tin̄ hend̄ & tenend̄ eidem Johanni a die confectionis dimissionis illius usq; plenum finem & terminum nonaginta & novem annor̄ extunc px' sequen̄ plenar̄ complend̄

That the *locus in quo &c.* was inclosed with Walls, Fences and Gates, so that he could not use his Common, and that the Defendants threw down the Walls and Inclosure, and used the Common.

Other Defendant prescribes for Common under *R. L.* by virtue of a Lease for 99 years if the others so long live.

&

& finiend si idem Johannes Brooks & Anna tunc uxor ejus & quidam Robertus filius eorundem Johannis & Anne vel aliquis eor tam diu viverent aut viveret virtute cujus quidem dimissionis idem Johes Brooks Agricola postea scil't in Crastinum pr' post confectionem dimissionis illius in tenta illa cum ptin intravit & fuit & adhuc est inde possessionat qd in pdict Anno in quo &c. pdictus locus in quo &c. juxta pscriptionem pdictam jacere debuit friscus & ad wareck ac dicto tempore quo &c. inclus fuit cum muris fensuris & januis pdict sic qd idem Johes coia sua pdict ibi uti non potuit per quod idem Johes in jure suo ppio & simulcum pdict Michō Thoma & Thoma ex causa pdict p ipsos superius plitat dicto tempore quo &c. in pdicto loco in quo &c. intraver ad muros & fensuras pdict pstrand ac Januas pdictas frangens sic qd idem Johes coia sua pdict ibm uti potuit put de jure debuit ac muris & fensuris illis dicto tempore quo &c. pstraver & Januas pdict freger ac herbam pdict ibm tunc crescen idem Johes occasione pedibus ambulando conculcavit & consumpsit & at herbam ibm cum ducentibus Ovibus depast fuit conculcavit & consumpsit utendo coia sua pdict ibm put ei bene licuit que quidem intratio ipsius Johannis ad muros & fensuras pdict pstrand ac jannas pdict frangens ac muror & fensurar ill pstraco & januarum predictar fractio ac herbe pdict ibm tunc crescen pedibus ambulando conculcatio & consumptio & at herbe pdict ibm cum Ovibus illis depast conculcatio & consumptio ex causa predict fract sunt eedem fractio Cli illius ac murorum & fensuratum pdict pstratio ac Januarum pdict fractio & herbe pdict pedibus ambulando conculcatio & consumptio & at herbe pdict cum Ovibus depast conculcatio & consumptio Unde pdict Henricus superius inde versus eum queritur Et hoc parat est verificare unde pet Judicium si pdict Henricus Actionem suam pdict inde ulus eum here debeat &c.

Marginal notes: And that the *locus in quo* was walled and fenced. — And he entred and threw the Wall and Inclosure open. — Avearment of Identity.

1 Demurrer.

Et pdict Henricus quoad pdict Plitum pdictor Michi Thome Cripps & Thome Rawlings p se supius in barram plitat quoad fractionem Cli pdict ac pstraconem muror & fensurar pdict ac fractionem Januarum pdict ac herbe pdict pedibus ambulando conculcaconem & consumpconem & at herbe pdict cum Ovibus depast conculcacon & consumpcon p ipsos Michum Thomam Cripps & Thomam Rawlings fact dic qd Plitum ac materia in eodem content minus sufficien in lege existunt ad ipsum Henricum ab actione sua pdict inde versus pdictos Michum Thomam Cripps & Thomam Rawlings hend pcludend qdq ipse ad Plitum illud modo & forma pdict plitat necesse non het nec p legem terre tenetur aliquo modo respondere Et hoc parat est verificare Unde p defectu sufficien Pliti pdict Michi Thome Cripps & Thome Rawlings in parte idem Henricus pet Judicium & dampna sua occasione tnsgr' illius sibi adjudicari &c.

2 Demurrer.

Et quoad Plitum pdict Johannis Brooks Agricole per se superius in barram plitat quoad fractionem Cli pdict ac pstrationem muror & fensur pdictor ac fractionem Januar pdictar ac herbe pdict pedibus ambulando conculcacon & consumpcon & at herbe pdict cum Ovibus depasturacon conculcacon & consumpcon p ipsum Johannem Brooks Agricolam fact idem Henricus dicit qd Plitum illud ipsius Johannis Brooks Agricole ac materia in eodem content minus sufficien in lege existunt ad ipsum Henricum ab Actione sua pdict inde ulus pdict Johem hend pcludend qdq ipse idem Henricus ad Plitum illud modo & forma pdict plitat necesse non het nec p legem terre tenetur aliquo modo respondere Et hoc parat est verificare unde p defcu sufficien Pliti pdict Johis Brooks Agricole in hac parte idem Henricus pet Judicium & dampna sua occasione transgressionis illius sibi adjudicari &c.

Et

Et pdict Nichus Thomas & Thomas quoad pdict Plitum pdict Nichi Thome & Thome quoad fractionem Cli pdict ac pstraconem murorum & sensurarum pdict ac fracconem Januarum pdict ac herbe pdict pedibus ambulando conculcacon & consumpcon & at herbe pdict cum Ovibus depast conculcaonem & consumpcon p ipsos Nichum Thomam & Thomam modo & forma pdict superius plitat dicunt qd Plitum illud materiaq in eodem content bon & sufficien in lege existunt ad pdict Henricum ab Actione pdict inde vsus ipsos Nichum Thoma & Thoma hend pcludend qd quidem Plitum materiamq in eodem content iidem Nichus Thomas & Thomas parat sunt verificare & pbare put Cur &c. Et quia pdict Henricus ad Plitum illud non respondit nec illud hucusq aliqualit dedicit iidem Nichus Thomas & Thomas ut prius pet Judicium Et qd pdict Henricus ab Actione sua pdict inde vsus eos hend pcludatur &c. 1 Joynder. Et pdict Johes Brooks Agricola quoad pdict Plitum pdict Johis Brooks Agricole quoad fracconem Cli pdict ac pstraconem murorum & sensur pd ac fracconem Januarum pd ac herbe pd pedibus ambulando conculcacon & consumpcon & at herbe pdict cum Ovibus depast conculcaconem & consumpconem p ipsum Johem Brooks Agricolam modo & forma pdictis superius plitat dicit qd plitum illud materiaq in eodem content bon & sufficien in lege existunt ad pdict Henricum ab Actione sua pdict inde vsus ipsum Johem Brooks Agricolam hend pcludend quod quidem plitum materiamq in eodem content idem Johes Brooks Agricola parat est vrificare & pbare put Cur &c. Et quia pdict Henricus ad Plitum illud non respondit nec ill hucusq aliqualit dedicit Idem Johes Brooks Agricola ut prius pet Judicium & qd pdict Henricus ab Actione sua pdict inde versus eum hend pcludatur &c. 2 Joynder.

THE

Joynder. Et prædict' Ricardus Thomas & Thomas quoad prædict' Willielmum prædict' Rich' & Thome & Thome quoad transitum ... [illegible]

Joynder. [illegible]

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The Plaintiff warrants the Ship to be substantial, and well victualled, tackled, *&c.*

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Replication to the Plea of *M. H.* and Issue.

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That the respective Patrons should present by Turns. The first Presentation to be by such Patron of the Church whose Endowments were larger, and that the Endowments of St. *Andrews* are of larger yearly value, 142

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That at the time of the Act *J. C.* was Incumbent of St. *Andrews Wardrobe*.

Tho. Gouge 27 *Car.* 2. sells his Advowson of *Black-Fryars* to several of the Inhabitants in Fee.

J. C. died by which St. *Andrews* was first vacant after the Act of Parliament, and King *Charles* II presented *J. S.* who was instituted and inducted.

The Inhabitants of *Black-Fryars* bargainees of *Gouge* all dead but the Plaintiffs whereby the surviving Inhabitants the Plaintiffs ought to present.

The Defendant demurrs to the Declaration generally, Judgment *pro Quer.* but reversed in Parliament.

Narr.

Narr. Bishop of *London* seised of the Advowson in gross of St. *Martins in the Fields* collates *Lamplugh*, who was created Bishop of *Exon*, whereby it appertained to the King to present, who presented Dr. *Floyd*, who was created Bishop of St. *Asaph*, and so belonged to the King to present, who presented Dr. *Tenison*, who was created Bishop of *Lincoln*, and so it belongeth to the King to present. 144

The Defendant pleads in Abatement variance between the Writ and the Count. Attorney General demurrs. Joinder in Demurrer, and a *Respondeas ouster*. Bishop of *London* demurs upon the Count. 145

Dr. *Lancaster* in his Plea confessing the Seisin and Collation of *Lamplugh* and all the Presentations by the King pleads the Statute 15 *H.* 8. of Dispensations at large.

That the Archbishop granted to Dr. *Tenison* a Dispensation to hold St. *Martins* in *Commendam* till 1 *July*. 146

Confirmation of the Letters of Dispensation pleaded.

Tenison created Bishop of *Lincoln*.

Then the Bishop of *London* collates Dr. *Lancaster*.

Averment of Identities.

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Stat. 3 *Jac.* 1. The Plaintiff indicted for not coming to Church. Proclamation that the Plaintiff render his Body to the Sheriff. That he did not appear.

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Information before three Justices of the Peace, *ibid.*

The Plaintiff appears and was convict, and adjudged to forfeit 40 *s.* The Justices make their Warrant to the Officers to distrain, who made a Distress of a Silver Can, *&c.* The Plaintiff pays 20 *l.* for the Redemption of his Goods which they delivered to him, 153

Replication. That *E. A. anno* 1666. was possest of the said Goods, and *eodem anno* made his last Will and made the Plaintiff Executor, and died; he proved the Will, and hath ever since continued possest of the said Goods till the Defendants took them *de injuria sua propria.* Demurrer general to the Replication, 154

Narr. Avowry, that the Dean and Chapter of *Westminster* were seised of the Mannor of *D.* in Fee *in jure Ecclesiæ.*

In which Mannor is a Custom that all the Tenants of Lands in *E.* (having Common of Pasture to their Tenements belonging) have used to repair a Bridge in *E.* 155

Another Custom, that the Steward of a Mannor with the assent of the Homage may make By-Laws, and impose penalties on the Offenders to be forfeited to the Lord, and the Lord to distrain for the penalties.

Avowant decrees a Title from the Dean and Chapter, *ibid.*

Presentment by the Homage at a Court Baron, that the Bridge was out of repair. 156

Ordinances made that the Inhabitants Commoners should repair the Bridge before such a time on forfeiture of 5 *l.* to the Lord of the Mannor, *ibid.*

That the Plaintiffs in the *Replevin* were Commoners and Inhabitants, and that they had notice of the By-Law. *ibid.*

At a Court Baron it was presented by the Homage, that the Bridge was not repaired at the day, by reason whereof 5 *l.* was forfeited to the Lord, and so justifie the distress. *ibid.*

Plea *de injuria sua propria.*

Demurrer general.

Narr. The Defendant makes Conusance that *J. H.* 12 *Car.* 2. granted an Annuity to *M. T.* in Fee, and Seisin by 6 *d.* 157

Clause of Distress.

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M. W. covenants with Sir *VV. B.* to stand seised of the said Rent to the use of him and his Heirs, if she dies without a Child, she died without Child. *ibid.*

Sir *VV. B.* sells the Rent to *N. VV.* in Fee, the Tenant attorned to this Grant, *N. VV.* dies seised, whereby it descended to his four Sons in Gavelkind, the Lands charged being Gavelkind Lands; the Defendant, as Bailiff to one of the Sons, distrains for a fourth part of the Rent arrear. *ibid.*

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Plea to the *Scire Facias*, that parcel of the damages were taken in Execution on the *Fieri Fac.* 164

And that it was agreed, that if *T. A.* and *T. M.* would undertake to pay to the Sheriff 10 *l.* at such a day, that then the Plaintiff would accept of the same in full satisfaction of the residue; that they did undertake and pay it at the day, *ibid.*

The Plaintiff demurs, and the Defendant joyns in Demurrer.

Scire Facias on a *Devastavit* found. The Defendant pleadsfully administred, and traverseth the *Devastavit*.

The Plaintiff replies, the Defendant hath wasted, and Issue thereupon.

Special Verdict. That divers of the Goods of the Intestate came to the Defendants hands, and that the Defendant *Devastavit* parcel, 168

That the Intestate was indebted for Goods sold, and to other persons. That the Defendant retained, 169

Scire Facias against the Bail of a Judgment in the County of the City of *York*, 170

Recital of the Recognisance. 171

Execution prayed.

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The Plaintiff replies a *Capias* on Original in *B.* directed to the Sheriff of *York*, and declared and laid in the County of the City of *York*. 172

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Trespass for entring the House, and taking the Goods, not guilty to part, 175

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Precept of *Fieri Facias*,
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Trespass for mowing and carrying away Hay.
Not guilty to part.
To the residue the Defendant disclaims title to the Premises of the Plaintiff; that he is seised of a parcel of Land near the Plaintiffs, and mowed the Plaintiffs Land, thinking it had been his own, and so Trespass involuntary, and that before the Action brought he tendred 2 *s.* in amends, *& uncore prist*, which 2 *s.* was ample satisfaction, Demurrer, 178,179

Trespass *vi & armis* for entring into the House, and taking away the Goods in *London*.
Imparlance.
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The Defendants plead as to entring into the House an *Habere facias possessionem* on a Judgment in Ejectment directed to them.
Warrant to the Serjeant at Mace.
And travers that they are guilty *Fractionis & Intrationis* before the delivery of the Warrant to them, or after the Return of the said Writ, 183

Quoad captionem & asportationem bonorum they plead *C. M.* one of the Defendants levied a plaint of Debt of 40 *l.* in the *Poultry Counter* against the Plaintiff, and set forth Process, Summons, Attachment of the Plaintiffs Goods in the Hands of *H. M.* and the Precept to attach, and the Return of the Precept, after four defaults the appraisement of the Goods, Judgment to have Execution in Security of the Defendant in the said Action, and the Defendant in this should find sufficient Security to answer the Plaintiff in the said Action or disprove the Debt. 186

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That the Sheep of the Plaintiff were mingled with other Sheep, 188

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Rejoinder in maintenance of their Plea, and traverse the Request and delivery of the Refusal.
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Replication de *de injuria sua propria*, and travereth that before the Trespass the Attachment was delivered to the Sheriff. *ibid.*

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The Plaintiff demurrs generally.
Judgment *pro Querente.* *ibid.*

Trespass for erecting a Stall in a Market place.
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Trespass for breaking the House, and taking the Goods, 195

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The Defendant pleads the Estate of Limitations. 203

The Plaintiff replies by Original sued out and Outlawry in *London,* that the Defendant stood outlawed till it was reversed within the year, and then the Plaintiff declared, and the Defendant demurs specially, 1. Because it is not shewed when the first Original was sued out. 2. Nor when the Outlawry was reversed. Joinder in Demurrer, 204

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Trespass for taking and driving Cattle. 209

Justification for Damage fesant, *ibid.*

Replication, that the Earl of *Suffolk* was seised of the Mannor of *Walden* in Fee, *ibid.*

And prescribes for him, his Farmers and Tenants a Sheep-walk for Sheep not exceeding 250 in every year when the said Close was sowed from Harvest until resown, and when it lay fallow during all the year; the Earl conveys, 210

The Mannor for a Jointure for his Countess and dies, *ibid.*

The Countess demised the said Shep-walk (*inter alia*) to the Plaintiff for 21 years, 211

The Close was sowed, and after the Corn was carried away, and before it was resowed, the Plaintiff put in his Sheep, and the Defendant drove them away, *ibid.*

Demurrer general, *ibid.*

Trespass for taking Sheep and Lambs, 212

Plea, Recovery before the Sheriff in the County by Justicies, *ibid.*

And concludes not *que est eadem.* Demurrer. 213

Trespass for taking Goods. 214

Plea. Justifie that the Lord of the Mannor for the conservation of the sick, and the Burial of the dead cast on shore, and preservation of the Goods used to have the best Anchor, and the best Cable of every Shipwrack. Demurrer. *ibid.*

Trespass of Assault, Battery and spoiling Goods. Not guilty as to the Assault, 215

As to the Goods. *ibid.*

That there is a Mannor within the Leet, and a Market there, and that Ale-tasters used to be chosen to weigh the Butter there, and if it wanted weight to cut it, 216

That the Defendant was chosen Ale-taster, and cut the Butter for want of weight. Demurrer general. *ibid.*

Trespas of Assault of the Wife, 217

Plea, *son assault* demesne. *ibid.*

Replication, that the Plaintiff was possest of an House and Shop, and the Defendant entred and reviled him, whereupon the Wife by his command *molliter manus imposuit*, 217, 218

Demurrer special, because the Plea doth not admit, nor traverse, 219

Trespass for breaking his Close and throwing down the Fences, 219

Plea as to breaking the Close and throwing down the Fences, *ibid.*

That the *Locus in quo* is parcel of a Field, which used to be sowed every second year; and that the Principal and Scholars of *Queens* Colledge in *Oxon* prescribe *pro se & firmariis*, common of Pasture every year, that that Land lies fresh, 220
A Lease from the Colledge reserving Rent, *ibid.*
That the *Locus in quo, &c.* was inclosed with Walls, Fences and Gates, so that he could not use his Common, and that the Defendants threw down the Walls and Inclosure, and used the Common. Demurrer. 221,222

V.

Verdict.

Special Verdict as to Bankrupsy, *Vide* Bankrupt. 16
Special Verdict in *Ejectione firmæ* Vide Ejectment.
Special Verdict as to escape out of the *Fleet*, 61
Special Verdict on *Devastavit*, 168

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FINIS.